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International Court of Justice

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Official transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 5 December 1945, 1010-1245, Lord Justice Lawrence, presiding.

MR. ALDERMAN: May it please the Tribunal: When the Tribunal rose yesterday afternoon, I had just offered in evidence Document 2826-PS, Exhibit USA 111. This was an article by SS Group Leader Karl Herman Frank, published in Bohmen and Mahren, or Bohemia and Moravia, the official periodical of the Reich's Protector of Bohemia and Moravia, the issue of March 1941, at page 79. It is an article which reveals with considerable frankness the functions which the FS and the SS had, and shows the pride which the Nazi conspirators took in the activities of these organizations. I read from that article, under the heading "The SS on March 15, 1939":

"A modern people and a modern state are today unthinkable without political troops. To these are allotted the special task of being the advance guard of the political will and the guarantor of its unity. This is especially true of the German folk-groups, which have their home in some other people's state. Accordingly the Sudeten German Party had formerly also organized its political troop, the Voluntary Vigilantes" -- or, in German -- "Freiwilliger Selbstschutz, called FS for short. This troop was trained especially in accordance with the principles of the SS, so far as these could be used in this region at that time. The troop was likewise assigned here the special task of protecting the homeland actively, if necessary. It stood up well in its first test in this connection, wherever in the fall crisis of 1938 it had to assume the protection of the homeland, arms in hand.

"After the annexation of the Sudeten Gau, the tasks of the FS were transferred essentially to the German student organizations as compact troop formations in Prague and Brunn, aside from the isolated German communities which remained in the second republic. This was also natural because many active students from the Sudeten Gau were already members of the SS. The student organizations then had to endure this test, in common with other

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Germans, during the crisis of March 1939.

"In the early morning hours of March 15, after the announcement of the planned entry of German troops in various localities, German men had to act in some localities in order to assure a quiet course of events, either by assumption of the police authority, as for instance in Brunn, or by corresponding instruction of the police president, etc. In some Czech offices, men had likewise, in the early hours of the morning, begun to burn valauble archives and the material of political files. It was also necessary to take measures here in order to prevent foolish destruction. How significant the many-sides and comprehensive measures were considered by the competent German agencies, follows from the fact that many of the men either on March 15 itself or on the following days were admitted into the SS with fitting acknowledgment, in part even through the Reich's leader of the SS himself or through SS Group Leader Heydrich. The activities and deeds of these men were thereby designated as accomplished in the interest of the SS.

"Immediately after the corresponding divisions of the SS had marched in with the first columns of the German Army and had assumed responsibility in the appropriate sectors, the men here placed themselves at once at their further disposition and became valuable auxiliaries and collaborators."

I now ask the Court to take judicial notice under Article 21 of the Charter of three official documents. These are identified by us as Documents D-571, D-572, and 2943-PS. I offer them in evidence, respectively, D-571 as Exhibit USA 112; D-572, Exhibit USA 113; and 2943-PS, which is the French

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Official Yellow Book, at pages 66 and 67, as Exhibit US 114.

THE PRESIDENT: Have you cited 572?

MR. ALDERMAN: D-572 was Exhibit US 113. The first two documents are British diplomatic dispatches, properly certified to by the British Government, which give the background of intrigue in Slovakia--German intrigue in Slovakia. The third document, 2943-PS, or Exhibit USA 114, consists of excerpts from the French Yellow Book, principally excerpts from dispatches signed by M. Coulondre, the French Ambassador in Berlin, to the French Foreign Office, between 13 and 18 March, 1939. I expect to draw on these three dispatches rather freely in the further course of my presentation, since the Tribunal will take judicial notice of each of these documents, I think; and, therefore, it may not be necessary to read them at length into the transcript. In Slovakia the long-anticipated crisis came on 10 March. On that day the Czechoslovakian Government dismissed those members of the Slovak cabinet who refused to continue negotiations with Prague, among them Foreign Minister Tiso and Durcansky. Within twenty-four hours the Nazis seized upon this act of the Czechoslovak Government as an excuse for intervention. The following day, March 11, a strange scene was enacted in Bratislava, the Slovak Capital. I quote from Document D-571, which is US 112. That is the report of the British Minister in Prague to the British Government.

"Herr Buerckel, Herr Seyss-Inquart, and five German generals came at about 10 p.m. in the evening of Saturday, the 11th March, into a cabinet meeting in progress in Bratislava, and told the Slovak Government that they should proclaim the independence of Slovakia. When M. Sidor, the Prime Minister, showed hesitation, Herr Buerckel took him on one side and explained that Herr Hitler had decided to settle the question of Czechoslovakia definitively. Slovakia ought, therefore, to proclaim her independence, because Herr Hitler would

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otherwise disinterest himself in her fate. M. Sidor thanked Herr Buerckel for this information, but said that he must discuss the situation with the Government at Prague"--a very strange situation that he should have to discuss such a matter with his own Government before obeying instructions of Herr Hitler delivered by five German generals and Herr Buerckel and Seyss-Inquart.

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Events went on moving rapidly, but Durcansky, one of the dismissed ministers, escaped with Nazi assistance to Vienna, where the facilities of the German broadcasting station were placed at his disposal. Arms and ammunition were brought from German offices in Engerau across the Danube into Slovakia, where they were used by the FS and the Hlinka Guards to create incidents and disorder of the type required by the Nazis as an excuse for military action. The German press and radio launched a violent campaign against the Czechoslovak Government; and, significantly, an invitation from Berlin was delivered in Bratislava. Tiso, the dismissed Prime Minister, was summoned by Hitler to an audience in the German Capital. A plane was awaiting him in Vienna.

At this point, in the second week of March 1939, preparations for what the Nazi leaders liked to call the liquidation of Czechoslovakia were progressing with what to them must have been very satisfying smoothness. The military, diplomatic and propaganda machinery of the Nazi conspirators was moving in close coordination. As during the process of the Fall Gruen, or Case Green, of the preceding summer, the Nazi conspirators had invited Hungary to participate in this new attack. Admiral Horthy, the Hungarian Regent, was again greatly flattered by this invitation.

I offer in evidence Document 2816-PS, as Exhibit USA 115. This is a letter the distinguished Admiral of Hungary, a country which, incidentally, had no Navy, wrote to Hitler on 13 March 1939, and which we captured in the German Foreign Office files.

"Your Excellency,

My sincere thanks

"I can hardly tell you how happy I am because this Head Water Region - I dislike using big words - is of vital importance to the life of Hungary" -- I suppose he needed some head waters for the non-existent Navy of which he was Admiral.

"In spite of the fact that our recruits have only been serving for 5 weeks we are going into this affair with eager enthusiasm. The dispositions have already been made. On Thursday, the 16th of this month, a frontier incident will take place which will be followed by the big blow

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on Saturday" -- He doesn't like to use big words. "Big Blow" is sufficient

"I shall never forget this proof of friendship and your Excellency may rely on my unshakeable gratitude at all times.

"Your devoted friend,

"HORTHY."

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From this cynical and callous letter from the distinguished Admiral--

THE PRESIDENT; Was that letter addressed to the Hungarian Ambassador at Berlin?

MR. ALDERMAN: I thought it was addressed to Hitler, if the President please.

THE PRESIDENT: There are some words at the top which look like a Hungarian name.

MR. ALDERMAN: That is a letthead. As I understand it, the letter was addressed to Adolph Hitler.

THE PRESIDENT: All right.

MR. ALDERMAN: And I should have said it was--it ended with the--

THE PRESIDENT: Is there anything on the letter which indicates that?

MR. ALDERMAN: Only the fact that it was found in the Berlin Foreign Office, and the wording of the letter and the address, "Your Excellency,"--we may be drawing a conclusion as to whom it was addressed; but it was found in the Berlin Foreign Office.

From that cynical and callous letter it may be inferred that the Nazi conspirators had already informed the Hungarian Government of their plan for further military action against Czechoslovakia. As it turned out the time table was advanced somewhat. I would draw the inference that His Excellency, Adolph Hitler, informed his devoted friend Horthy of this change in good time.

On the diplomatic level the Defendant Ribbentrop was quite active. On 13 March, the same day on which Horthy wrote his letter, Ribbentrop sent a cautionary telegram to the German minister in Prague outlining the course of conduct he should pursue during the coming diplomatic pressure. I offer in evidence Document 2815-PS as Exhibit U.S.A. 116. This is the telegram sent by Ribbentrop to the German Legation in Prague on 13 March.

"Berlin, 13 March 1939. Prague. Telegram in secret code.

"With reference to telephone instructions given by Kordt today. In case you should get any written communication from President Hacha, please do not make any written or verbal comments or take any other action on them

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but pass them on here by cipher telegram. Moreover, I must ask you and the other members of the Embassy to make a point of not being available if the Czech Government wants to communicate with you during the next few days. Signed Ribbentrop."

On the afternoon of 13 March M. Tise, accompanied by Durcansky and M. Meissner the local Nazi leader, arrived in Berlin in response to the summons from Hitler to which I have heretofore referred. Late that afternoon Tise was received by Hitler in his study in the Reich Chancery and presented with an ultimatum. Two alternatives were given him: either declare the independence of Czechoslovakia or be left without German assistance; two, what were reffered to as the mergers of Poland and Hungary. This decision Hitler said was not a question of days, but of hours. I now offer in evidence Document 2802-PS as U.S.A. Exhibit No. 117, again a document captured in the German Foreign Office; German Foreign Office minutes of the meeting between Hitler and Tise on 13 March. I read the bottom paragraph on page two and the top paragraph on page three of the English translation. The first paragraph I shall read is a summary of Hitler's remark. You will note that in the inducements he held out to the Slovaks, Hitler displayed his customary disregard for the truth. I quote:

"Now he had sent Keppler as his minister to Pressburg, to whom Sidor had declared that he was a soldier of Prague and would oppose a separation of Slovakia from the Czechoslovak.

"Now he had permitted Minister Tise to come here in order to make this question clear in a very short time. Germany had no interests east of the Carpathian mountains. It was indifferent to him what happened there. The question was whether Slovakia wished to conduct her own affairs or not. He did not wish for anything from Slovakia. He would not pledge his people or even a single soldier to something which was not in any way desired by the Slovak people. He would like to secure final confirmation as to what Slovakia really wished. He did not wish that reproaches should come from Hungary that he was preserving something which did not wish to be preserved at all. He took a liberal view of unrest and demonstration in general, but

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in this connection unrest was only an outward indication of interior instability. He would not tolerate it and he had for that reason permitted Tiso to come in order to hear his decision. It was not a question of days, but of hours. He had stated at that time that Slovakia wished to make herself independent he would support this endeavour and even guarantee it. He would stand by his word so long as Slovakia

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would make it clear that she wished for independence. If she hesitated or did not wish to dissolve the connection with Prague, he would leave the destiny of Slovakia to the mercy of events, for which he was no longer responsible. In that case he would only intercede for German interests, and these did not lie east of the Carpathians. Germany had nothing to do with Slovakia. She had never belonged to Germany.

"The Fuehrer asked the Reich Foreign Minister (the Defendant Ribbentrop) if he had any remarks to add. The Reich Foreign Minister also emphasized for his part the conception that in this case a decision was a question of hours not of days. He showed the Fuehrer a message he had just received which reported Hungarian troop movements on the Slovak frontiers. The Fuehrer read this report, mentioned it to Tiso, and expressed the hope that Slovakia would soon decide clearly for herself."

A most extraordinary interview. Germany had no interest in Slovakia; Slovakia had never belonged to Germany; Tiso was invited there. Now this is what happened: Those present at that meeting included the Defendant Ribbentrop, the Defendant Keitel, State Secretary Keppler, the German Minister of State Meissner. I invite the attention of the Tribunal to the presence of the Defendant Keitel on this occasion as on so many other occasions where purely political measures in furtherance of Nazi aggression were under discussion, and where apparently there was no need for technical military advice or value.

While in Berlin the Slovaks also conferred separately with the Defendant Ribbentrop and with other high Nazi officials. Ribbentrop very solicitously handed Tiso a copy already drafted in Slovak language of the law proclaiming the end of Slovakia. On the night of the 13th a German plane was conveniently placed at Tiso's disposal to carry him home. On 14 March, pursuant to the wishes of the Nazi conspirators, the diet of Bratislava proclaimed the end of Slovakia. With Slovak extremeness acting at the Nazi bidding in open revolt against the Slovakian Government, the Nazi leaders were now in a position to move against Prague. On the evening of the 14th, at the suggestion of the German Legation in Prague, M. Hacha, the president of the Czechoslovak Republic

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and M. Chvalkowsky, his foreign minister, arrived in Berlin. The atmosphere in which they found themselves might be described as somewhat hostile. Since the preceding weekend the Nazi press had accused the Czechs of using violence against the Slovaks and especially against the members of the German minority and citizens of the Reich. Both press and radio proclaimed that the lives of Germans were in danger. Such a situation was intolerable, and that it was necessary to smother as quickly as possible the focus of trouble, which Prague had become, in the heart of Europe--these peacemakers.

After midnight on the 15th at 1:15 in the morning Hacha and Chvalkowsky were ushered into the Reich Chancery. They found there Adolph Hitler, the Defendants Ribbentrop, Goering, and Keitel, and other high Nazi officials. I now offer in evidence Document 2798-PS as Exhibit U.S.A. 118. This document is the captured German Foreign Office account of this infamous meeting. It is a long document. Parts of it are so revealing and give so clear a picture of Nazi behavior and tactics that I shall read them in full.

It must be

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remembered that this account of the fateful conference on the night of March 14-15 comes from German sources, and of course it must be read as an account biased by its source, or as counsel for the defendants said last week "a tendentious account." Nevertheless, even without too much discounting of the report on account of its source, it constitutes a complete condemnation of the Nazis, who by pure and simple international banditry forced the dissolution of Czechoslovakia. And I interpolate to suggest that international banditry has been a crime against international law for centuries.

I will first read the headings to the minutes. In the English mimeographed version in the document books the time given is an incorrect translation of the original. It should read 0115 to 0215. Conference between the Fuehrer and Reich Chancellor and the president of Czechoslovakia Hacha, in the presence of the Reich Foreign Minister von Ribbentrop, and of the Czechoslovakia foreign minister Chvalkowsky, in the Reich Chancery on 15 March 1939, 0115 to 0215 hours. Others present were General Field Marshal Goering, General Keitel, Secretary of the State von Weissacher, Minister of the State Meissner, Secretary of the State Dietrich, Counsellor of the Legation Hewel. Hacha opened the conference. He was conciliatory -- even humble, though the president of a sovereign state. He thanked Hitler for receiving him and he said he knew that the fate of Czechoslovakia rested in the Fuehrer's hands. Hitler replied that he regretted that he had been forced to ask Hacha to come to Berlin, particularly because of the great age of the president, Hacha was then, I believe, in his seventies. But this journey, Hitler told the president, could be of great advantage to his country because, and I quote "It was only a matter of hours until Germany would intervene." I quote now from the top of page three of the English translation, You will bear in mind that what I am reading are rough notes or minutes of what Adolf Hitler said "Czechoslovakia was a matter of indifference to him."

"If Czechoslovakia had kept closer to Germany it would have been an obligation to Germany, but he was glad that he did not have this obligation now. He had no interests whatsoever in the territory east

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of the little Carpathian Mountains. He did not want to draw the final consequences in the autumn --

THE PRESIDENT: Mr. Alderman, don't you think you ought to read the last sentence on page two?

MR. ALDERMAN: Perhaps so; yes. The last sentence from the preceding page was: "For the other countries Czechoslovakia was nothing but a means to an end. London and Paris were not in a position to really stand up for Czechoslovakia."

(Continuing) "Czechoslovakia was a matter of indifference to him." Then I had read down to -- "But even at that time and also later in his conversations with Chvalkowsky he made it clear that he would ruthlessly smash this state if Benes's tendencies were not completely revised. Chvalkowsky understood this and asked the Fuehrer to have patience. (He often bragged of his patience). The Fuehrer saw this point of view, but the months went by without any change. The new regime did not succeed in eliminating the old one psychologically. He observed this from the press, mouth-to-mouth propaganda, dismissals of Germans, and many other things which, to him, were a symbol of the total positive.

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(Sounds like a continental expression to me). At first he had not understood this but when it became clear to him he drew his consequences because, had the development continued in this way, the relations with Czechoslovakia would in a few years have become the same as six months ago. Why did Czechoslovakia not immediately reduce its Army to a reasonable size? Such an army was a tremendous burden for such a state because it only makes sense if it supports the foreign political mission of the state. Since Czechoslovakia no longer has a foreign political mission such an army is meaningless. He enumerates several examples which proved to him that the spirit in the army had not changed. This symptom convinced him that the army also would be a source of a severe political burden in the future. Added to this were the inevitable development of economic necessities, and, further, the protests for national groups which could no longer endure life as it was."

I now interpolate, if the Tribunal please, to note the significance of that language of Adolph Hitler to the President of a supposed sovereign state and its prime minister. Having in his presence General Field Marshal Goering, the commander of the Air Force, and General Keitel. And continuing the quote:

"This it is that the die was cast on the past Sunday. I sent for the Hungarian ambassador and told him that I am withdrawing my hands from this country. We were not confronted with this fact. He had given the order to the German troops to march into Czechoslovakia and to incorporate Czechoslovakia into the German Reich. He wanted to give Czechoslovakia fullest autonomy and a life of her own to a larger extent than she ever had enjoyed during Austrian rule. Germany's attitude towards Czechoslovakia will be determined tomorrow and the day after tomorrow and depends on the attitude of the Czechoslovakian people and the Czechoslovakian military towards the German troops. He no longer trusts the government. He belives in the honesty and straightforwardness of Hacha and Chvalkowsky, but doubts that the government will be able to assert itself in the entire nation. The German Army had already started out today, and at one barracks where resistance was offered it

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was ruthlessly broken; another barracks had given in at the deployment of heavy artillery.

"At six o'clock in the morning the German Army would invade Czechoslovakia from all sides and the German Air Force would occupy the Czech airfields. There existed two possibilities. The first one would be that the invasion of the German troops would lead to a battle. In this case the resistance will be broken by all means with physical force. The other possibility is that the invasion of the German troops occurs in bearable form (supportable). In that case it would be easy for the Fuehrer to give Czechoslovakia at the new organization of Czech life a generous life of her own, autonomy, and a certain national liberty.

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"We witnessed at the moment a great historical turning-point. He would not like to torture and de-nationalize the Czechs. He also did not do all that because of hatred but in order to protect Germany. If Czechoslovakia in the fall of last year would not have yielded,***" I suppose that is a bad translation for "had not yielded. "***the Czech people would have been exterminated. Nobody could have prevented him from doing that. It was his will that the Czech people should live a full national life and he believed firmly that a way could be found which would make far-reaching concessions to the Czech desires. If fighting would break out tomorrow, the pressure would result in counter pressure. One would annihilate one another and it would then not be possible any more for him to give the promised alleviations. Within two days the Czech army would not exist any more. Of course, Germans would also be killed and this would result in a hatred which would force him***" that is, Hitler, "***because of his instinct of self-preservation, not to grant autonomy any more. The world would not move a muscle. He felt pity for the Czech people when he was readying the foreign press. It would leave the impression on him which could be summarized in a German proverb: 'The Moor has done his duty, the Moor may go.'

"That was the state of affairs. There existed two trends in Germany, a harder one which did not want any concessions and wished in memory to the past that Czechoslovakia would be conquered with blood, and another one, the attitude of which corresponded with his just mentioned suggestions.

"That was the reason why he had asked Hacha to come here. This invitation was the last good deed which he could offer to the Czech people. If it would come to a fight, the blood shed would also force us to hate. But the visit of Hacha could perhaps prevent the extreme. Perhaps it would contribute to finding a form of construction which would be so far-reaching for Czechoslovakia as she could never have hoped for in the old Austria. His aim was only to create the

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necessary security for the German people.

"The hours went past. At 6 o'clock the troops would march in. He was almost ashamed to say that there was one German division to each Czech battalion. The military action was no small one, but planned with all generosity. He would advise him ***" that is, Adolf Hitler advise Paul Hacha, "*** now to retire with Chvalkowsky in order to discuss what should be done."

In his reply to this long harangue, Hacha, according to the German minutes, said that he agreed that resistance would be useless. He expressed doubt that he would be able to issue the necessary orders to the Czech Army in the four hours left to him, before the German Army crossed the Czech Border. He asked if the object of the invasion was to disarm the Czech Army. If so, he indicated that might possibly be arranged. Hitler replied that his decision was final; that it was well known what a decision of the Fuehrer meant. He turned to the circle of Nazi conspirators surrounding him, for their support, and you will remember that the Defendants, Goering, Ribbentrop, and Keitel were all present. The only possibility of disarming the Czech Army, Hitler said, was by the intervention of the German Army.

I read, now, one paragraph from page four of the English version of the German minutes of this infamous meeting. It is next to the last paragraph on page four.

"The Fuehrer states that his decision was irrevocable. It was well known what a decision of the Fuehrer meant. He did not see any other possibility for disarmament and asked the other gentlemen***" that is, including Goering, Ribbentrop, and Keitel, ***"whether they shared his opinion which was answered in the affirmative. The only possibility to disarm the Czech army was by the German army."

At this sad point, Hacha and Chvalkowski retired from the room.

I now offer in evidence Document 2861 PS, an excerpt from the official British War Blue Book, at page 24 and I offer it as Exhibit USA 119. This is an official document of the British Government, of

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which the Tribunal will take judicial notice under the provisions of Article 21 of the Charter. The part from which I read is a Dispatch from the British Ambassador, from Neville Henderson, describing a conversation with the Defendant Goering, in which the events of this early morning meeting are set forth.

"From: Neville Henderson. To: Viscount Halifax. Berlin, May 28, 1939. My Lord: I paid a short visit to Field Marshal Goering at Karinhall yesterday." Then I skip two paragraphs and begin reading with paragraph four. I am sorry, I think I better read all of those paragraphs.

"Field Marshal Goering, who had obviously just been talking to someone else on the subject, began by inveighing against the attitude which was being adopted in England towards everything German and particularly in respect of the gold held there on behalf of the National Bank of Czechoslovakia. Before, however, I had had time to reply, he was called to the telephone and on his return did not revert to this specific question. He complained, instead, of British hostility in general, of our political and economic encirclement of Germany and the activities of what he described as the war party in England, etc.

"I told the Field Marshal, that before speaking of British hostility, he must understand why the undoubted change of feeling towards Germany in England had taken place. As he knew quite well the basis of all the discussions between Mr. Chamberlain and Herr Hitler last year had been to the effect that, once the Sudeten were allowed to enter the Reich, Germany would leave the Czechs alone and would do nothing to interfere with their independence. Herr Hitler had given a definite assurance to that effect in his letter to the Prime Minister of the 27th September. By yielding to the advice of his 'wild men' and deliberately annexing Bohemia and Moravia, Herr Hitler had not only broken his word to Mr. Chamberlain but had infringed the whole principle of self-determination on which

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the Munich agreement rested.

"At this point, the Field Marshal interrupted me with a description of President Hacha's visit to Berlin. I told Field Marshal Goering that it was not possible to talk of free will when

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I understood that he himself had threatened to bombard Prague with his airplanes, if Doctor Hacha refused to sign. The Field Marshall did not deny the fact but explained how the point had arisen. According to him, Doctor Hacha had from the first been prepared to sign everything but had said that constitutionally he could not do so without reference first to Prague. After considerable difficulty, telephonic communication with Prague was obtained and the Czech Government had agreed, while adding that they could not guarantee that one Czech battalion at least would not fire on German troops. It was, he said, only at that stage that he had warned Doctor Hacha that, if German lives were lost, he would bombard Prague. The Field Marshal also repeated, in reply to some comment of mine, the story that the advance occupation of Witkowitz had been effected solely in order to forestall the Poles who, he said, were known to have the intention of seizing this valuable area at the first opportunity."

I also invite the attention of the Tribunal and the judicial notice of the Tribunal, to Dispatch Number 77, in the French Official Yellow Book, at page 7 of the book, identified as our Document 2943-PS. appearing in the Document Book under that number, and I ask that it be given an identifying number Exhibit USA 114. This is a Dispatch from M. Coulondre, the French Ambassador, and it gives another well-informed version of this same midnight meeting. The account, which I shall present to the Court, of the remainder of this meeting is drawn from these two sources, the British Blue Book and the French Yellow Book. I think the Court may be interested to read somewhat further at large in those two books, which furnish a great deal of the background of all of these matters.

When President Hacha left the conference room in the Reichschancellory, he was in such a state of exhuastion that he needed medical attention from a physician who was conveniently on hand for that purpose, a German physician. When the two Czechs returned to the room, the Nazi conspirators again told them of the power and invincibility of the Wehrmacht. They reminded them that in three hours at six in the morning --

THE PRESIDENT: You are not reading? I beg your pardon!

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MR. ALDERMAN: I am not reading, I am summarizing.

THE PRESIDENT: Go on.

MR. ALDERMAN: They reminded him that in three hours at six in the morning, the Defendant would cross the border. The Defendant Goering boasted of what the Wehrmacht would do if the Czech forces dared to resist the invading Germans. If German lives were lost, Defendant Goering said, his Luftwaffe would blaze half of Prague into ruins in two hours and that, Goering said, would be only the beginning.

Under this threat of imminent and merciless attack by land and air, the aged President of Czechoslovakia at four-thirty in the morning, signed the Document with which the Nazi conspirators confronted him and which they had already had prepared. This Document is TC 49, the declaration of 15 March 1939, one of the series of documents which will be presented by the British Prosecutor, and from it I quote this, on the assumption it will subsequently be introduced.

"The President of the Czechoslovakian State entrusts with entire confidence the destiny of the Czech people and the Czech country to the hands of the Fuehrer of the German Reich" -- really a rendezvous with destiny.

While the Nazi officials were threatening and intimidating the representatives of the Czech Government, the Wehrmacht had in some areas already crossed the Czech Border.

I offer in evidence Document 2860 PS, another excerpt from the British Blue Book, of which I ask the Court to take Judicial notice. This is a speech by Lord Halifax, the Secretary of State for Foreign Affairs, from which I quote one passage. This is Document 2860 PS, which I have already offered and had identified.

"It is to be observed -- and the fact is surely not without significance -- that the towns of Mährisch-Ostrau and Vitkovice were actually occupied by German S.S. detachments on the evening of the 14th March, while the President and the Foreign Minister of Czechoslovakia were still on their way to Berlin and before any discussion

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had taken place."

At dawn on March 15, German troops poured into Czechoslovakia from all sides. Hitler issued an order of the day to the armed forces and a proclamation to the German people, which stated succinctly "Czechoslovakia has ceased to exist."

On the following day, in contravention of Article 81 of the Treaty of Versailles, Czechoslovakia was formally incorporated into the German Reich under the name of "The Protectorate of Bohemia and Moravia." The Decree is Document TC 51, another of the Documents which the British delegation will present to the Tribunal later in this week. It was signed in Prague on 16th March 1939, by Hitler, Lammers, and the Defendants Frick and von Ribbentrop.

I should like to quote the first sentence of this Decree. "The Bohemian and Moravian countries belonged for a millennium to the Lebensraum "living space" of the German people." The remainder of the decree sets forth in bleak detail the extent to which Czechoslovakia henceforth was subjected to Germany. A German Protector was to be appointed by the German Fuehrer for the so-called "Procectorate", the Defendant von Neurath. God deliver us from such protectors!! The German Government assumed charge of their foreign affairs and of their customs and of their excises. It was specified that German garrisons and military establishments would be maintained in the Protectorate. At the same time the extremist leaders in Slovakia who, at German Nazi insistence, had done so much to undermine the Czech State found that the independence of their week-old State was itself in effect qualified.

I offer in evidence Document 1439 PS as Exhibit USA -- I need not offer that. I think it is a decree in the Reichsgesetzblatt, of which I ask the Tribunal to take judicial notice, and it is identified as our Document 1439 PS. It appears at page 606, 1939, Reichsgesetz-blatt, part two.

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The covering declaration is signed by the Defendant Ribbentrop, Minister of Foreign Affairs; and then there is a heading "Treaty of Protection to be extended by the German Reich to the State of Slovakia."

"The German Government and the Slovakian Government have agreed, after the Slovakian State has placed itself under the protection of the German Reich, to regulate by treaty the consequences resulting from this fact. For this purpose, the undersigned representatives of the two Governments have agreed on the following provisions:

"Article 1. The German Reich undertakes to protect the political independence of the State of Slovakia and integrity of its territory.

"Article 2. For the purpose of making effective the protection undertaken by the German Reich, the German armed forces shall have the right, at all times, to construct military installations and to keep them garrisoned in the strength they deem necessary, in an area delimited on its Western side by the frontiers of the State of Slovakia, and on its eastern side by a line formed by the eastern rims of the Lower Carpathians, the White Carpathians, and the Javernik Mountains." Then I skip. "The Government of Slovakia will organize its military forces in close agreement with the German armed forces. I also offer in evidence Document 2793-PS.

THE PRESIDENT: Wouldn't that be a convenient time to break off. I understand, too, that it would be for the convenience of the Defense Counsel if the Tribunal adjourn for an hour and a quarter rather than for an hour at midday, and accordingly, the Tribunal will retire at 12:45 and sit again at 2:00.

(Whereupon a short recess was called at 1130 hours).

MR ALDERMAN: (continuing): May it please the Tribunal, this secret protocal between Germany and Slovakia provided for close economic and financial collaboration between Germany and Slovakia. Mineral resources and sub-soil rights were placed at the disposal of the German Government.

I offer in evidence Document 2793-PS, Exhibit U.S.A. 120, and from it I read Paragraph 3:

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"Investigation, development and utilization of the Slovak natural resources. In this respect the basic principle is that, inso far as they are not needed to meet Slovakia's own requirements, they should be placed in first line at Germany's disposal. The entire soil research" -- Bodenforschung is the German word -- "will be placed under the Reichagency for soil-research." That is the Reichsstelle fuer Bodenforschung. "The government of the Slovak State will soon start an investigation to determine whether the present owners of concessions andprivileges have fulfilled theindustrial obligations prescribed by law and it will cancel concessions and privileges in cases where these duties have been neglected."

In their private conversations the Nazi conspirators gave abundant evidence that they considered Slovakia a mere puppet state--in effect a German possession.

I offer in evidence Document R-100 as Exhibit U.S.A. 121. This document is a memorandum of information given by Hitler to von Brauchitsch on 25 March 1939. Much of it deals with problems arising from recently occupied Bohemia and Moravia and Slovakia. I quote beginning at the sixth paragraph:

"Col. Gen. Keitel shall inform Slovak Government via Foreign Office that it would not be allowed to keep or garrison armed Slovak units (Hlinka Guards) on this side of the border formed by the river Waag. They shall be transferred to the new Slovak territory. Hlinka Guards should be disarmed.

"Slovak shall be requested via Foreign Office to deliver to us against payment any arms we want and which are still kept in Slovakia. This request is to be based upon agreement made between Army and Czech troops. For this payment these millions should be used which we willpour anyhow into Slovakia.

"Czech Protectorate:

"H. Gr."--the translator's note indicates that that probably means army groups, but I can't vouch for it--"shall be asked again whether the request shall be repeated again for the delivery of all

H0015-0026

arms within a stated time limit and under the threat of severe penalties.

"We take all war material of former Czechoslovakia without paying for it. The guns bought by contract before 15 February, though, shall be paid for. Bohemia and Moravia have to make annual contributions to the German treasury. Their amount shall be fixed on the basis of the expenses earmarked formerly for the Czech army."

The German conquest of Czechoslovakia, in direct contravention of the Munich agreement, was the occasion for formal protest by the British and French Governments. These documents, No. TC 52 and TC 53, dated 17 March, 1939, will be presented to the Tribunal by the British Prosecutor.

On the same day, 17 March 1939, the Acting Secretary of

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State of the United States Government issued a statement, which I will offer in evidence and I invite the Court to take judcial notice of the entire volume, Document 2862-PS--as Exhibit U.S.A. 122, which is an excerpt from the official volume entitled "Peace and War: United States Foreign Policy, 1931-1941," issued under the seal of the Department of State of the United States of America. Incidentally, this volume which happens to be my own copy-- and I hope I can get another one-- I am placing in evidence, because I am quite certain that in its study of the background of this whole case the Court will be very much interested in this volume, which is a detailed chronological history of all the diplomatic events leading up to and through the Second World War of 1941. But what I am actually offering in evidence at the moment appears on pages 454 and 455 of the volume, a statement by the Acting Secretary of State Wells, dated 17 March 1939:

"The Government of the United States has on frequent occasions stated its conviction that only through international support of a program of order based upon law can world peace be assured.

"This Government, founded upon and dedicated to the principles of human liberty and of democracy, cannot refrain from making known this country's condemnation of the acts which have resulted in the temporary extinguishment of the liberties of a free and independant people with whom, from the day when the Republic of Czechoslovakia attained its independence, the people of the United States have maintained specially close and friendly relations.

"The position of the Government of the United States has been made consistently clear. It has emphasized the need for respect for the sanctity of treaties and of the pledged word, and for non-intervention by any nation in the domestic affairs of other nations; and it has on repeated occasions expressed its condemnation of a policy of military aggression.

"It is manifest that acts of wanton lawlessness and of arbitrary force are threatening the world peace and the very structure of modern civilization. The imperative need for the observance of the

H0015-0028

principles advocated by this Government has been clearly demonstrated by the developments which have taken place during the past three days."

With Czechoslovakia in German hands, the Nazi conspirators had accomplished the program they had set themselves in the meeting in Berlin on 5 November 1937. You will recall that this program of conquest was intended to shorten their frontiers, to increase their industrial and food reserves, and to place them in a position, both industrially and strategically, from which they could launch more ambitious and more devastating campaigns of aggression. In less than a year and a half this program had been carried through to the satisfaction of the Nazi leaders, and at that point I would again invite the Court's attention to the large chart on the wall. I think it is no more figure of speech to make reference to the wolf's head, what is known in Anglo-American law as caput lupinum.

The lower jaw formed near Austria was taken - the red part on the first chart - 12 March 1938. Czechoslovakia thereby was encircled, and the next step was the absorption of the mountainous part, the Sudetenland, indicated on the second chart in red. On 1 October 1938 Czechoslovakia was further encircled and its defences weakened, and then the jaws clamped in, or the pincers, as I believe General Keitel or General Jodl called them -- I believe it was General Jodl's diary - and you see what they do to Czechoslovakia. On 15 March 1939 the borders were shortened, new bases were acquired, and then Czechoslovakia was destroyed. Bohemia and Moravia are in black and Slovakia in what might be called light tan. But I have read to you the documents which showed in what condition Slovakia was left; and with the German military installations in Slovakia, you see how completely the southern border of Poland was flanked, as well as the Western border, the stage being set for the next aggression, which the British Prosecutor will describe to you.

Of all the Nazi conspirators the Defendant Goering was the most aware of the economic and strategic advantages which would accrue from the possession by Germany of Czechoslovakia.

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I now offer in evidence Document 1301-PS, which is a rather large file, and we offer particularly Item 10 of the document, at page 25 of the English translation. I offer it as Exhibit U.S.A. 123, Page 25 of the English translation contained the Top Secret minutes of a conference with Goering in the Luftwaffe Ministry, the Air Ministry. The meeting which was held on 14 October 1938, just two weeks after the occupation of the Sudetenland, was devoted to the discussion of economic problems. As of that date, the Defendant Goering's remarks were somewhat prophetic. I quote from the third paragraph, from the bottom of page 26 of the English translation:

"The Sudetenland has to be exploited with all the means. General Field Marshal Goering counts upon a complete industrial assimilation of the Slovakia. Czech and Slovakia would become German dominions. Everything possible must be taken out. The Oder-Danube Canal has to be speeded up. Searches for oil and ore have to be conducted in Slovakia, notably by State Secretary Keppler."

In the summer of 1939, after the incorporation of Bohemia and Moravia into the German Reich, Defendant Goering again revealed the great interest of the Nazi leaders in Czech economic potential.

I offer in evidence Document R-133, as Exhibit U.S.A. 124. This document is a minute, dated Berlin -

THE PRESIDENT: 133, isn't it?

MR. ALDERMAN: Yes, R-133, dated Berlin, 27 July 1939, signed by Muller, of a conference between Goering and a group of officials from the OKW and from other agencies of the German Government, concerned with war production. This meeting had been held two days previously, on 25 July. I read the first part of the account of this meeting.

"In a rather long statement the Field Marshal explained that the incorporation of Bohemia and Moravia into the German economy had taken place, among other reasons, to increase the German War potential, by exploitation of the industry there. Letters, such as the decree of the Reich Minister for Economics - S 10 402/39 of 10 July 1939 - as well as a letter with similar meaning to the Junkers firm, which might possibly lower the kind and extent of the armament measures in the Protectorate are contary to this principle. If it is necessary to issue

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such directives, this should be done only with his consent. In any case, he insists, (that is defendant Goering insists) in agreement with the directive by Hitler, that the war potential of the Protectorate is definitely to be exploited in part or in full and is to be directed towards mobilization as soon as possible."

In addition to strengthening the Nazi economic potential for the wars of aggression, the conquest of Czechoslovakia provided the Nazis with new bases from which to wage their next war of aggression, the attack on Poland.

You will recall the minutes of the conference between Goering and a pro-Nazi Slovak delegation in the winter of 1938-1939. Those minutes are Document 2801-PS, which I introduced into evidence earlier, as Exhibit U.S.A. 109. You will recall the last sentence of those minutes, a statement of Defendant Goering's conclusions. I quote this sentence again:

"Air bases in Slovakia are of great importance for the German Air Force for use against the East."

I now offer in evidence Document 1874 PS, as Exhibit U.S.A.125. This document is the German minutes of a conference between Defendant Goering and Mussolini and Ciano on 15 April 1939, one month after the conquest of Czechoslovakia.

In this conference, Goering told his junior partners in the Axis of the progress of German preparations for war. He compared the strength of Germany with the strength of England and France. Not unnaturally, he mentioned the German occupation of Czechoslovakia, in this connection. I read two paragraphs of these thoughts, on page 4, paragraph 2 of the German minutes.

THE PRESIDENT: Which document is this?

MR. ALDERMAN: It is 1874 PS.

"However, the heavy armament of Czechoslovakia shows, in any case, how dangerous this could hve been, even after Munich, in the event of a serious conflict. Because of German action, the situation of both Axis countries was ameliorated, among other reasons, because of the economic possibilities which resulted from the transfer to Germany of the great production capacity of Czechoslovakia. That contributes toward a considerable strengthening of

H0015-0031

the Axis against the Western powers.

"Furthermore, Germany now need not keep ready a single division for protection against that country in case of bigger conflict. This too, is an advantage by which both Axis countries will, in the last analysis, benefit."

Then on page 5, paragraph 2 of the German version:

"The action taken by Germany in Czechoslovakia is to be viewed as an advantage for the Axis in case Poland should finally join the enemies of the Axis powers. Germany could then attack this country from two flanks and would be within only twenty-five minutes flying distance from the new Polish industrial center, which had been moved further into the interior of the country, nearer to the other Polish industrial districts because of its proximity to the border."

Now, by the turn of events, it is located again in the proximity of the border. And that flanking on two fronts is illustrated on the four segment chart.

I think the chart itself demonstrates, better than any oral argument, the logic and cold calculation, the deliberation of each step to this point of the German aggression. More than that, it demonstrates what I might call, the master fight of the aggressive war case, that is that each conquest of the Nazi conspirators was deliberately planned as a stepping stone to new and more ambitious aggression.

You will recall the words of Hitler, at the conference in the Reichchancellery on 23 May 1939, when he was planning the Polish campaign, Document L-79, Exhibit Number U.S.A.27. I quote from it.

"The period which lies behind us has, indeed, been put to good use. All measures have been taken in the correct sequence and in harmony with our aims."

It is appropriate to refer to two other speeches of the Nazi leaders. In his lecture in Munich on 7 November 1943, the Defendant Jodl spoke as follows, and I quote from page 5 of Document L-172, already received in evidence as Exhibit U.S.A.34; on page 8 of the German text:

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"The bloodless solution of the Czech conflict in the autumn of 1938 and spring of 1939 and the annexation of Slovakia rounded off the territory of Greater Germany in such a way that it now became possible to consider the Polish problem on the basis of more or less favorable strategic premises!

In the speech to his military commanders on 23 November 1939, Hitler described the process by which he had rebuilt the military power of the Reich, this is our Document 789-PS, Exhibit U.S.A.23. I quote one passage from the second paragraph:

"The next step was Bohemia, Moravia and Poland. This step also was not possible to accomplish in one campaign. First of all, the western fortifications had to be finished. It was not possible to reach to goal in one effort. It was clear to me, from the first moment, that I could not be satisfied with the Sudeten German territory. That was only a partial solution. The decision to march into Bohemia was made. Then followed the erection of the Protectorate and with that, the basis for the action against Poland was laid.

Before I leave the subject of the aggression against Czechoslovakia, I should like to submit to the Court a document which became available to us too late to be included in our Document Book. It reached me Saturday, late in the afternoon or late at night. This is an official document, again from the Czechoslovakian Government, a supplement to the Czechoslovakian report, which I had previously offered in evidence. I now offer it, identified as Document 3061-PS, as Exhibit U.S.A.126.

The document was furnished us, if the Court please, in the German text with an English translation, which didn't seem to us quite adequate and we have had it retranslated into English and the translation has just been passed up, I believe, to the Tribunal.. That mimeographed translation should be appended to our Document Book "O".

I shall not read the report; it is about twelve pages long. The Court will take judicial notice of it, under the provisions of the Charter. I merely summarize. This document gives confirmation and corroboration to the other evidence which I presented to the Tribunal. In particular, it offers support to the following allegations:

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First, the close working relationship between Henlein and the SDP, on the one hand, and Hitler and Defendants Hess and Ribbentrop, on the other.

Second, the use of the German Legation in Prague to direct the German Fifth Column activities.

Third, the financing of the Henlein movement by agencies of the German Government, including the German diplomatic representative at Prague.

Fourth, the use of the Henlein movement to conduct espionage on direct orders from the Reich.

In addition, this document gives further details of the circumstances of the visit of President Hacha to Berlin on the night of 14 March. It substantiates the fact that President Hacha required the medical attention of Hitler's physician and it supports the threat, which the Defendant Goering.

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made to the Czech delegation.

Now, if it please the Tribunal, that concludes my presentation of what to me, has always seemed one of the saddest chapters in himan history, the rape and destruction of the frail, little nation of Czechoslovakia.

SIR DAVID MAXWELL FYFE: May it please the Tribunal: Before I tender the evidence which I desire to place before the Tribunal, it might be convenient if I explained how the British case is to be divided up and who will present the different parts.

I shall deal with the general treaties. After that, my learned friend, Colonel Griffith Jones, will deal with Poland. Thirdly, Mr. Alvin Jones will deal with Norway and Denmark. Fourth, Mr. Roberts will deal with Belgium, Holland, and Luxembourg. Fifthly, Colonel Phillimore will deal with Greece and Yugoslavia. After that, my friend, Mr. Alderman, of the American delegation, will deal on behalf of both delegations with the aggression against the USSR and the USA.

May I also, with the Tribunal's permission, say one word about the arrangements that we have made as to documents. Each of the Defendants' Counsel will have a copy of the Document Book, of the different Document Books, in English. In fact, 30 copies of the first four of our Document Books have already been placed in the Defendants' Information Center. We hope that the last Document Book, dealing with Greece and Jugoslavia, will have the 30 copies placed there today.

In addition, the Defendants' Counsel have at least six copies in German of every document.

With regard to my own part of the case, the first section on general treaties, all the documents on this phase are in the Reichsgesetzblatt or Die Dokumente Der Deutschen Politik, of which ten copies have been made available to the Defendants' Counsel, so that with regard to the portion with which the Tribunal is immediately concerned, the Defendants' Counsel will have at least 16 copies in German of every document referred to.

Finally, there is a copy of the Reichsgesetzblatt and Die Dokumente

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available for the Tribunal, other copies if they so desire, but one is placed ready for the Tribunal if any member wishes to refer to a German text.

THE PRESIDENT: Were you supposed to call any oral witnesses?

SIR DAVID MAXWELL FYFE: No, My Lord, no oral witnesses.

If the Tribunal please, before I come to the first treaty I want to make three quotations to deal with a point which was mentioned in the speech of my learned friend, The Attorney General, yesterday.

It might be thought from the melancholy story of broken treaties and violated assurances, which the Tribunal has already heard, that Hitler and the Nazi Government did not even profess that it is necessary or desirable to keep the pledged word. Outwardly, however, the professions were very different. With regard to treaties, on the 18th of October, 1933, Hitler said, "Whatever we have signed we will fulfill to the best of our ability."

The Tribunal will note the reservation, "Whatever we have signed."

But, on the 21st of May 1935, Hitler said, "The German Government will scrupulously maintain every treaty

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voluntarily signed, even though it was concluded before their accession to power and office."

On assurances Hitler was even more emphatic. In the same speech, the Reichstag Speech on May 21, 1935, Hitler accepted assurances as being of equal obligation, and the world at that time could not know that that meant of no obligation at all. What he actually said was, "And when I now hear from the lips of a British statesman that such assurances are nothing and that the only proof of sincerity is the signature appended to collective pacts, I must ask Mr. Eden to be good enough to remember that it is a question of an assurance in any case. It is sometimes much easier to sign treaties with the mental reservations that one will reconsider one's attitude at the decisive hour than to declare before an entire nation and with full opportunity one's adherence to a policy which serves the course of peace because it rejects anything which leads to war."

And then he proceeds with the illustration of his assurance to France.

Never having seen the importance which Hitler wished the world to believe he attached to treaties, I shall ask the Tribunal in my part of the case to look at fifteen only of the treaties which he and the Nazis broke. The remainder of the 69 broken treaties shown on the chart and occurring between 1933 and 1941 will be dealt with by my learned friends.

There is one final point as to the position of a treaty in German law, as I understand it. The appearances of a treaty in the Reichsgesetzblatt makes it part of the statute law of Germany, and that is by no means an uninteresting aspect of the breaches which I shall put before the Tribunal.

The first treaty to be dealt with is the Convention for the Pacific Settlement of International Disputes, signed at the Hague on the 29th of July, 1899. I ask that the Tribunal take judicial notice of the Convention, and for convenience I hand in as Exhibit GB-1 the British document, TC-1. The German reference is to the

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Reichsgesetzblatt for 1901, No. 44, Sections 401 to 404, and 482 and 483. The Tribunal will find the relevant charge in Appendix C as Charge 1.

As the Attorney General said yesterday, these Hague

H0015-0038

Conventions are only the first gropings towards the rejection of the inevitability of war. They do not rend the making of aggressive war as a crime, but their milder terms were as readily broken as the more severe agreements.

On the 19 July, 1899, Germany, Greece, Serbia and 25 other nations signed a convention. Germany ratified the convention on 4 September 1900, Serbia on the 11 May, 1901, Greece on the 4 April, 1901.

By Article 12 of the treaty between the Principal Allied and Associated Powers and the Serb-Croat-Slovene State, signed at the St. Germaine-en-Laye on 10 September, 1919, the new Kingdom succeeded to all the old Serbian treaties, and later, as the Tribunal know, changed its name to Yugoslavia.

I think it is sufficient, unless the Tribunal otherwise wish, for me to read the first two articles only.

Article 1: "With a view to obviating as far as possible recourse to force in the relations between states, the signatory powers agree to use their best efforts to insure the pacific settlement of International differences."

Article 2: "In case of serious disagreement or conflict, before an appeal to arms the signatory powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly powers."

After that the Convention deals with machinery, and I don't hink, subject to any wish of the Tribunal, that it is necessary for me to deal with it in detail.

The second treaty is the Convention for the Pacific Settlement of International Disputes, signed at the Hague on the 18th of October, 1907. Again I ask the Tribunal to take judicial notice of this, and for convenience hand in as Exhibit GB-2 the final act of the conference at the Hague, which contains British documents TC-2, 3, and 4. The reference to this convention in German is to the Reichsgesetzblatt for 1910, Number 52, Sections 22 to 25, and the relevant charge is Charge 2.

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This Convention was signed at the Hague by 44 nations, and it is in effect as to 31 nations, 28 signatories, and three adherents. For our purpose it is in force as to the United States, Belgium, Czechoslovakia, Denmark, France, Germany, Luxembourg, Japan, Netherlands, Norway, and Poland, and Russia.

By the provisions of Article 91 it replaces the 1899 Convention as between the contracting powers. As Greece and Yugoslavia are parties to the 1899 convention and not to the 1907, the 1899 Convention is in effect with regard to them, and that explains the division of countries in Appendix C.

Again I only desire that the Tribunal should look at the first two articles.

"1: With a view to obviating as far as possible recourse to force in the relations between States, the contracting powers agree to use their best efforts to insure the pacific settlement of international differences."

Then I don't think I need trouble to read 2. It is the same article as to mediation, and again there are a number of machinery provisions.

The third treaty is the Hague Convention relative to the opening of hostilities, signed at the same time. It is contained in the exhibit which I put in. Again I ask that judicial notice be taken of it. The British document is TC-3. The German reference is the Reichsgesetzblatt for 1910, Number 2, Sections 82 to 102, and the reference in Appendix C to Charge 3.

This Convention applies to Germany, Poland, Norway, Denmark, Belgium, the Netherlands, Luxembourg, and Russia. It relates to a procedural step in notifying one's prospective opponent before opening hostilities against him. It appears to have had its immediate origin in the Russo-Japanese war, 1904, when Japan attacked Russia without any previous warning. It will be noted that it does not fix any particular lapse of time between the giving of notice and the commencement of hostilities, but it does seek to maintain an absolutely minimum standard of International decency before th outbreak of war.

Again, if I might refer the Tribunal to the first article: "The

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contracting powers recognize that hostilities between them must not commence without a previous and explicit warning in the form of either a declaration of war, giving reasons, or an ultimatum with a conditional declaration of war."

Then there are a number again of machinery provisions, which I shall not trouble the Tribunal with.

The fourth treaty is the Hague Convention 5, respecting the rights and duties of neutral powers and persons in case of war on land, signed at the same time. That is British Document TC-4, and the German reference is Reichsgesetzblatt 1910, Number 2, Sections 168 and 176. Reference in Appendix C is to Charge 4.

THE PRESIDENT: Is it necessary to give the German reference? If it is necessary for defendants' counsel, all right, but if not it needn't be done.

SID DAVID MAXWELL FYFE: If I may omit them it will save some time.

THE PRESIDENT: Yes.

SIR DAVID MAXWELL FYFE: If any of the defendants' counsel want any specific reference perhaps they will be good enough to ask me.

THE PRESIDENT: Yes.

H0015-0041

SIR DAVID-MAXWELL FYFE: Germany was an original signatory to the Convention, and the treatty is in force as a result of ratification or adherence between Germany and Norway, Denmark, Belgium, Luxembourg, The Netherlands, the U.S.S.R., and the United States.

I call the attention of the Tribunal to the short content of Article 1: "The territory of neutral powers is inviolable."

A point does arise, however, on this Convention. I want to make this clear at once. Under Article 20 the provisions of the present Convention do not apply except between the contracting powers, and then only if all the belligerents are parties to the Convention.

As Great Britain and France entered the war within two days of the outbreak of the war between Germany and Poland, and one of these powers had not ratified the Convention, it is arguable that its provisions did not apply to the Second World War.

I do not want that the time of the Tribunal should be occupied by an argument on that point when there are so many more important treaties to be considered. Therefore, I do not press that as a charge of a breach of treaty. I merely call the attention of the Tribunal to the terms of Article 1 as showing the state of International opinion at that time and as an element in the aggressive character of the war which we are considering.

THE PRESIDENT: Perhaps this would be a good time to break off.

(Whereupon at 1245 hours the Tribunal adjourned until 1400 hours on the same day.)

File copy

H0015-0042

Official transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering, et al, Defendants, sitting at Nürnberg, Germany, on 5 December, 1945, 1400-1700, Lord Justice Lawrence, presiding.

SIR DAVID MAXWELL-FYFE: As the Tribunal adjourned I had come to the fifth treaty, the treaty of peace between the allies and the associated powers of Germany, signed at Versailles the 28th of June, 1919. I again ask the Tribunal to take judicial recognizance of this treaty, and I again hand in for convenience Exhibit GB-3, which is a copy of the treaty, including British documents TC-5 to TC-10 inclusive. The reference in Appendix C is to Charge 5.

Before I deal with the relevant portions, may I explain very briefly the lay-out of the treaty.

Part I contains the Covenant of the League of Nations, and Part II sets the boundaries of Germany in Europe. These boundaries are described in detail.

Part II makes no provision for guaranteeing these boundaries.

Part III, Articles 31 to 117 with which the Tribunal is concerned, contains the political clauses for Europe. In it, Germany guarantees certain territorial boundaries in Belgium, Luxembourg, Austria, Czechoslovakia, France, Poland, Memel, Danzig, etc.

It might be convenient for the Tribunal to note at the moment the interweaving of this treaty with the next, which is the treaty for the restoration of friendly relations between the United States and Germany.

Parts I, II and III of the Versailles Treaty are not included in the United States Treaty. Parts IV, V, VI, VIII, IX, X, XI, XII, XIV, and XV are all repeated verbatim in the United States Treaty from the Treaty of Versailles.

The Tribunal is concerned with Part V, which are the military, naval, and air clauses. Parts VII and XIII are not included in the United States Treaty.

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I don't think there is any reason to explain what the parts are, but if the Tribunal wishes to know about any specific part, I shall be very happy to explain it.

The first part that the Tribunal is concerned with is that contained in the British document TC-5, and which consists of Articles 42 to 44 dealing with the Rhineland. These are very short, and repeated in the Locarno Treaty. Perhaps I had better read them once, so that the Tribunal will have them in mind.

"Article 42: Germany is forbidden to maintain or construct any fortifications either on the left bank of the Rhine or on the right back to the west of a line drawn 50 kilometers to the east of the Rhine.

"Article 43: In the area defined above the maintenance and the assembly of armed forces, either permanently or temporarily, and military maneuvers of any kind, as well as the upkeep of all permanent works for mobilization, are in the same way forbidden.

"Article 44: In case Germany violates in any manner whatever the provisions of Articles 42 and 43, she shall be regarded as committing a hostile act against the powers signatory of the present treaty and as calculated to disturb the peace of the world."

I am not going to put in evidence, but I simply draw the Tribunal's attention to a document of which they can take judicial notice, as it has been published by the German State, the memorandum of March 7, 1936, giving their account of the breach. The matters regarding the breach have been dealt with by my friend Mr. Alderman, and I don't propose to go over the ground again.

The next part of the Treaty is in the British document TC-6, dealing with Austria:

"Article 80: Germany acknowledges and will respect strictly the independence of Austria within the frontiers which may be fixed in a treaty between that State and the principal allied and associated powers; she agrees that this independence shall be inalienable, except with the consent of the Council of the League

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of Nations."

Again in the same way, the proclamation of Hitler dealing with Austria, the background of which has been dealt with by my friend Mr. Alderman, is attached as TC-47. I do not intend to read it because the Tribunal can again take judicial notice of the public proclamation.

Next is document TC-8, dealing with Memel.

"Germany renounces, in favor of the principal allied and associated powers, all rights and title over the territories included between the Baltic, the Northeastern frontier of East Prussia as defined in Article 28 of Part II, (Boundaries of Germany) of the present treaty, and the former frontier between Germany and Russia. Germany undertakes to accept the settlement made by principal allied and associated powers in regard to these territories, particularly insofar as concerns the nationality of inhabitants."

I don't think that the Tribunal has had any reference to the formal document of incorporation of Memel, which again the Tribunal can take judicial notice of; and I put in, for convenience, a copy as GB-4. It is British document TC-53A, and it appears in our book. It is very short, so perhaps the Tribunal will bear with me while I read it:

"The transfer Commissioner for the Memel territory, Gauleiter und Oberpresident Erich Koch, effected on 3

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April, 1939, during a conference at Memel, the final incorporation of the late Memel territory into the National Socialist Party Gau of East Prussia and into the state administration of the East Prussian Regierungsbezirk of Grunbinnen."

Then, we next come to TC-9, which is the article relating to Danzig, Article 100, and I shall only read the first sentence, because the remainder consists of georgraphical boundaries:

"Germany renounces, in favor of the principal allied and associated powers, all rights and title over the territory comprised within the following limits", and then the limits are set out and are described in a German map attached to the Treaty.

Colonel Griffith Jones, who will deal with this part of the case, will formally prove the documents relating to the occupation of Danzig, and I shan't trouble the Tribunal with them now.

If the Tribunal would go on to British document TC-7--that is Article 81, dealing with the Czechoslovak pledge." "Germany, in conformity with the action already taken by the allied and associated powers, recognizes the complete independence of the Czechoslovak State, which will include the autonomous territory of the Ruthenians to the South of the Carpathians. Germany hereby recognizes the frontiers of this State as determined by the principal allied and associated powers and other interested states."

Mr. Alderman has dealt with this matter only this morning, and he has already put in an exhibit giving in detail the conference between Hitler and President Hacha, and the Foreign Minister Chvalkowsky, at which the Defendants Goering and Keitel were present. Therefore, I am not going to put in to the Tribunal the British translation of the captured foreign office minutes, which occurs in TC-48; but I put it formally, as Mr. Alderman asked me to this morning, as GB-6, the document TC-49, which is the agreement signed by Hitler and the Defendant Ribbentrop for Germany, and Dr. Hacha and Dr. Chvalkowsky for Czechoslovakia. It is an agreement of which the Tribunal will take judicial notice.

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I am afraid I can't quite remember whether Mr. Alderman read that this morning; it is document TC-49. He certainly referred to it.

THE PRESIDENT: No, he didn't read it.

SIR DAVID MAXWELL-FYFE: Then perhaps I might read it:

"Text of the Agreement between the Fuehrer and Reichs Cancellor Adolf Hitler and the President of the Czechoslovak State, Dr. Hacha.

"The Fuehrer and Reichs Chancellor today received in Berlin, at their own request, the President of the Czechoslovak State, Dr. Hacha, and the Czechoslovak Foreign Minister, Dr. Chwalkowsky, in the presence of Herr Von Ribbentrop, the Foreign Minister of the Reich. At this meeting the serious situation which had arisen within the previous territory of Czechoslovakia owing to the events of recent weeks, was subjected to a completely open examination. The conviction was unanimously expressed on both sides that the object of all their efforts must be to assure quiet, order and peace in this part of Central Europe. The Ptesident of the Czechoslovak State declared that, in order to serve this end and to reach a final pacification, he confidently placed the fate of the Czech people and of their country in the hands of the Fuehrer of the German Reich. The Fuehrer accepted this declaration and expressed his decision to assure to the Czech people, under the protection of the German Reich, the autonomous development of their national life.in accordance with their special characteristics. In witness whereof this document is signed in duplicate."

The signatures I have mentioned appear.

The Tribunal will understand that it is not my province to make any comment; that has been done by Mr. Alderman. And I am not putting forward any of the documents I have read as having my support; they are merely put forward factually as part of the case.

The next document, which I put in as GB-7, is the British document TC-50. That is Hitler's proclamation to the German people, dated the 15th March 1939. Again, I don't think that Mr. Alderman read that document.

THE PRESIDENT: No, he didn't read it.

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SIR DAVID MAXWELL-FYFE: Then I shall read it.

"Proclamation of the Fuehrer to the German people, 15 March 1939.

"To the German People:

"Only a fewmonths ago Germany was compelled to protect her fellow-countrymen, living in well-defined settlements, against the unbearable Czechoslovakian terror regime; and during the last weeks the same thing has happened on an ever-increasing scale. This is bound to create an intolerable state of affairs within an area inhabited by citizens of so many nationalities.

"These national groups, to counteract the renewed attacks against their freedom and life, have now broken away from the Prague Government. Czechoslovakia has ceased to exist.

"Since Sunday at many places wild excesses have broken out, amongst the victims of which are again many Germans. Hourly the number of oppressed and persecuted people crying for help is increasing. From areas thickly populated by German-speaking inhabitants, which last autumn Czechoslovakia was allowed by German

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generosity to retain, refugees robbed of their personal belongings are streaming into the Reich.

"Continuation of such a state of affairs would lead to the destruction of every vestige of order in an area in which Germany is vitally interested particularly as for over one thousand years it formed a part of the German Reich.

"In order definitely to remove this menace to peace and to create the conditions for a necessary new order in this living space, I have to-day resolved to allow German troops to march into Bohemia and Moravia. They will disarm the terror gangs and the Czechoslovakian forces supporting them, and protect the lives of all who are menaced. Thus they will lay the foundations for introducing a fundamental reordering of affairs which will be in accordance with the 1,000-year old history and will satisfy the practical needs of the German and Czech peoples".

Signed: Adolf Hitler, Berlin, 15 March, 1939.

Then there is a footnote, which is an order of the Fuehrer to the German armed forces of the same date, in which the substance is that they are told to march in to safeguard lives and property.of all inhabitants and not to conduct themselves as enemies, but as an instrument for carrying out the German Reich Government's decision.

I put in, as BG-8, the decree establishing the Protectorate, which is TC-51.

I think again, as these are public decrees, the Tribunal can take judicial notice of them. Their substance has been fully explained by Mr. Alderman. With the permission of the Tribunal, I will not read them in full now.

Then again, as Mr. Alderman requested, I put in, as GB-9, British Document TC-52, the British protest. If I might just read that to the Tribunal--it is from Lord Halifax to Sir Neville Henderson, our Ambassador in Berlib:

"Foreign Office, March 17, 1939:

"Please inform German Government that His Majesty's Government desire

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to make it plain to them that they cannot but regard the events of the past few days as a complete repudiation of the Munich Agreement and a denial of the spirit in which the negotiators of that Agreement bound themselves to cooperate for a peaceful settlement.

"His Majesty's Government must also take this occasion to protest against the changes effected in Czechoslovakia by German military action, which are, in their view, devoid of any basis of legality."

And again at Mr. Alderman's request, I put in as GB-10 the Document TC-53, which is the French protest of the same date, and if might read the third paragraph:

"The French Ambassador has the honor to inform the Minister for Foreign Affairs of the Reich of the formal protest made by the Government of the French Republic against the measures which the communication of Count de Welzeck records.

"The Government of the Republic consider, in fact, that in face of the action directed by the German Government against Czechoslovakia, they are confronted with a flagrant violation of the letter and the spirit of the agreement signed at Munich on September 9, 1938.

The circumstances in which the agreements of March 15 have been imposed on the leaders of the Czechoslovak Republic do not, in the eyes of the Government of the Republic, legalize the situation registered in that agreement.

"The French Ambassador has the honor to inform His Excellency, the Minister for Foreign Affairs of the Reich, that the Government of the Republic can not recognize under these conditions the legality of the new situation created in Czechoslovakia by the action of the German Reich."

I now come to Part 5 of the Versaille Treaty, and the relevant matters are contained in the British Document TC-10. As considerable discussion is centered around them, I read the introductory words:

"Part 5, Military, Naval and Air Clauses:

"In order to render possible the initiation of a general

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limitation of the armaments of all nations, Germany undertakes strictly to observe the military, naval and air clauses which follow.

"Section 1. Military Clauses. Effectives and Cadres of the German Army.

"Article 159. The German military forces shall be demobilized and reduced as prescribed hereinafter.

"Article 160. By a date which must not be later than March 31, 1920, the German Army must not comprise more than seven divisions of infantry and three divisions of cavalry.

"After that date, the total number of effectives in the army of the States constituting Germany must not exceed 100,000 men, including officers and establishments of depots. The army shall be devoted exclusively to the maintenance of order within the territory and to the control of the frontier:

"The total effective strength of officers, including the personnel of staffs, whatever their composition, must not exceed 4,000.

"(2) Divisions and Army Corps headquarters staffs, shall be organized in accordance with Table Number 1 annexed to this Section. The number and strength of units of infantry, artillery, engineers, technical services and troops laid down in the aforesaid table constitute maxima which must not be exceeded."

Then there is a description of units that can have their own depots and the divisions under corps headquarters, and then the next two provisions are of some importance.

"The maintenance or formation of forces differently grouped or of other organizations for the command of troops or for preparation for war is forbidden.

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"The great German General Staff and all similar organizations shall be dissolved and may not be reconstituted in any form."

I don't think I need trouble the Tribunal with Article 161, which deals with administrative services.

Article 163 provides the steps by which the reduction will take place, and then we come to Chapter 2, dealing with armament, and that provides that up till the time at which Germany is admitted as a member of the League of Nations, the armaments shall not be greater than the amount fixed in Table Number 11.

If the Tribunal will notice the second part, Germany agrees that after she has become a member of the League of Nations, the armaments fixed in the said table shall remain in force until they are modified by the Council of the League of Nations. Furthermore, she hereby agrees strictly to observe the decisions of the Council of the League on this subject.

Then, 165 deals with guns, machine guns etc. and 167 deals with notification of guns, and 168, the first part, says:

"The manufacture of arms, munitions or any war material shall only be carried out in factories or works, the location of which shall be communicated to and approved by the governments of the Principal Allied and Associated Powers, and the number of which they retain the right to restrict."

Article 169 deals with the surrender of material.

Number 170 prohibits importation.

171 prohibits gas, and 172 provides for disclosure. Then 173, under the heading "Recruiting and Military Training", deals with one matter, the breach of which is of great importance:

"Universal compulsory military service shall be abolished in Germany. The German Army may only be reconstituted and recruited by means of voluntary enlistment."

Then the succeeding articles deal with the method of enlistment in order to prevent a quick rush through the army of men enlisted for a short time.

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I think that all I need do is draw the attention of the Tribunal to the completeness and detail with which all these points are covered in Articles 174 to 179.

Then, passing on to TC-10, Article 180. That unites the prohibition of fortress works beyond a certain line and the Rhineland. The first sentence is:-

"All fortified works, fortresses and field works situated in German territory to the west of a line drawn 50 kilometers to the east of the Rhine shall be disarmed and dismantled."

I shall not trouble the Tribunal with the tables which show the amounts.

Then we come to the naval clauses, and I am sorry to say that the pages are out of order. If the Tribunal will go on four pages, they will come to Article 181, and I'll just read that to show the way in which the naval limitations are imposed and refer briefly to the others.

Article 181 says:

"After a period of two months from the coming into force of the present Treaty the German naval forces in commission must not exceed:

Six battleships of the Deutschland or Lothringen type
Six light cruisers
Twelve destroyers
Twelve torpedo boats

or an equal number of ships constructed to replace them as provided in Article 190.

"No submarines are to be included.

"All other warships, except where there is provision to the contrary in the present Treaty, must be placed in reserve or devoted to commercial purposes."

Then 182 simply deals with the mine sweeping necessary to clean up the mines and 183 limits the personnel to fifteen thousand, including officers and men of all grades and corps, and 184 deals with surface ships not in German ports, and the succeeding clauses deal with various details, and I pass at once to Article 191, which says:

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"The construction or acquisition of any submarines, even for commercial purposes, shall be forbidden in Germany."

194 makes corresponding obligations of voluntary engagements for longer service, and 196 and 197 deal with naval fortifications and wireless stations.

Then, if the Tribunal please, would they pass on to Article 198, the first of the Air Clauses. The essential, important sentence is the first:

"The armed forces of Germany must not include any military or naval air forces."

I don't think I need trouble the Tribunal with the detailed provisions which occur in the next four clauses, which are all consequential.

Then, the next document, which for convenience is put next to that, is British Document TC 44, which for convenience I put in as GB 11, but this again is merely ancillary to Mr. Alderman's argument. It is the report of the formal statement made at the German Air Ministry about the restarting of the Air Corps, and I respectfully suggest that the Tribunal can take judicial notice of that.

Similarly, without proving formally the long document, TC 45, the Tribunal can again take judicial notice of the public proclamation, which is a well known public document in Germany, the proclamation of compulsory military service. Mr. Alderman has again dealt with this fully in his address.

I now come to the sixth treaty, which is the treaty between the United States and Germany restoring friendly relations, and I put in a copy as Exhibit GB 12. It is Document TC 11, and the Tribunal will find it as the second last document in the document book. The purpose of this treaty was to complete the official cessation of hostilities between the United States of America and Germany, and I have already explained to the Tribunal that it incorporated certain parts of the Treaty of Versailles. The relevant portion for the consideration of the Tribunal is Part 5, and I have just concluded going through the clauses of the Treaty of Versailles which are repeated verbatim in this treaty. I

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therefore, with the approval of the Tribunal, will not read them again, but at Page 11 of my copy, they will see the clauses are repeated in exactly the same way.

JUDGE BIDDLE: We don't have a copy in our book. We have one with Austria.

SIR DAVID MAXWELL-FYFE: It ought to be the second last document in the book. May I pass mine up. Does that apply to other than the American Associate Judges? I'm so sorry.

Then I pass to the seventh treaty, which is the treaty of mutual guarantee between Germany, Belgium, France, Great Britain and Italy, done at Locarno, October 16, 1925. I ask the Tribunal to take judicial notice of that, and I put in as Exhibit GB 13, the British Document TC 12.

THE PRESIDENT: At some later stage, you will have all the members furnished with a copy of this treat between the United States and Germany?

SIR DAVID MAXWELL-FYFE: Oh, I thought it was only two that were deficient.

THE PRESIDENT: No, I think the Soviet member and my alternate, Mr. Justice Birkett, have the Austrian one. I think I am the only one that has the German one. I am not quite sure about the French member.

SIR DAVID MAZWELL-FYFE: I'm so sorry, Milord. I'll see that the American treaty is sent in.

THE PRESIDENT: Very well.

SIR DAVID MAXWELL-FYFE: It will be done at once, but so far as reference is concerned, the Tribunal will appreciate that the clauses are word for word the same as the Versaille clauses. If they wish to refer to it in the meantime, it is the same as the clauses in the Versaille. That won't make any difference, Milord, in procuring a copy of the treaty.

I was dealing with the Treaty of Locarno, and it might be convenient if I just reminded the Tribunal of the treaties that were negotiated at Locarno, because they do all go together and are to a certain extent mutually dependent.

At Locarno, Germany negotiated five treaties: (A) the Treaty of Mutual Guarantee between Germany, Belgium, France, Great Britain, and Italy;

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(B) the Arbitration Convention between Germany and France; (C) the Arbitration Convention between Germany and Belgium; (D) the Arbitration Treaty between Germany and Poland; and (E) an Arbitration Treaty between Germany and Czechoslovakia.

Article 10 of the Treaty of Mutual Guarantee provided that it should come into force as soon as ratifications were deposited at Geneva in the archives of the League of Nations and as soon as Germany became a member of the League of Nations. The ratifications were deposited on the 14th of September, 1926, and Germany became a member of the League of Nations.

The two arbitration conventions and the two arbitration treaties which I mentioned provided that they shall enter into force under the same conditions as the Treaty of Mutual Guarantee. That is Article 21 of the Arbitration Conventions and Article 22 of the arbitration treaties.

The most important of the five agreements is the Treaty of Mutual Guarantee. One of the purposes was to establish in perpetuity the borders between Germany and Belgium and Germany and France. It contains no provision for denunciation or withdrawal therefrom and provides that it shall remain in force until the Council of the League of Nations decides that the League of Nations ensures sufficient protection to the parties to the Treaty -- an event which never happened -- in which case the Treaty of Mutual Guarantee shall expire one year later.

The general scheme of the Treaty of Mutual Guarantee is that Article 1 provides that the parties guarantee three things: the border between Germany and France, the border between Germany and Belgium, and the demilitarization of the Rhineland.

Article 2 provides that Germany and France and Germany and Belgium agree that they will not attack or invade each other with certain inapplicable exceptions, and Article 3 provides that Germany and France and Germany and Belgium agree to settle all disputes between them by peaceful means.

The Tribunal will remember, because this point was made by my friend, Mr. Alderman, that the first important violation of the Treaty of Mutual

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Guarantee appears to have been the entry of German troops into the Rhineland on 7 March, 1936. The day after France and Belgium asked the League of Nations Council to consider the question of the German re-occupation of the Rhineland and the purported repudiation of the treaty, and on the 12th of March, after a protest from the British Secretary for Foreign Affairs, Belgium, France, Great Britain and Italy recognized unanimously that the re-occupation was a violation of this treaty, and on the 14th of March, the League Council duly and properly decided that it was not permissible and that the Rhineland clauses of the pact were not voidable by Germany because of the alleged violation by France in the Franco-Soviet Mutual Assistance Pact.

That is the background to the treaty with the international organizations that were then in force, and if I might suggest them to the Tribunal, without adding to the summary which I have given, the relevant articles are 1, 2 and 3, which I have mentioned, 4, which provides for the bringing of violations before the Council of the League, as was done, and 5 I ask the Tribunal to note, because it deals with the clauses of the Versailles Treaty which I have already mentioned. It says:

"The provisions of Article 3 of the present Treaty are placed under the guarantee of the High Contracting Parties as provided by the following stipulations:

"If one of the Powers referred to in Article 3 refuses to submit a dispute to peaceful settlement or to comply with an arbitral or judicial decision and commits a violation of Article 2 of the present Treaty or a breach of Article 42 or 43 of the Treaty of Versailles, the provisions of Article 4 of the present Treaty shall apply."

That is the procedure of going to the League in the case of a flagrant breach or of taking more stringent action.

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I remind the Tribunal of this provision because of the quotations from Hitler which I mentioned earlier, when he said that the German Government will scrupulously maintain their treaties voluntarily signed, even though they conclude before their intercession of power. Then is stated the Treaty of Versailles. Whatever you argue, if it has been argued, no one has ever argued for a moment to the best of my knowledge that Stresemann was in any way acting involuntarily when he signed the pact on behalf of Germany, along with the other representatives. He signed not there in Stresemann's name, but by Herr Hans Luther, so that there you have a treaty freely entered into, which repeats the violation provisions of the Versailles, and binds Germany in that regard. I simply call the attention of the Tribunal to Article 8, which deals with the preliminary enforcement of the Treaty by the League, which perhaps I should read because of the fact I told the Tribunal that all the other treaties had the same lasting qualities, the same provision contained therein as the Treaty of Mutual Guarantee:

Article 8

"The present Treaty shall be registered at the League of Nations in accordance with the Covenant of the League. It shall remain in force until the Council, acting on a request of one or other of the High Contracting Parties notified to the other signatory Powers three months in advance, and voting at least by a two-thirds majority, decides that the League of Nations ensures sufficient protection to the High Contracting Parties; the Treaty shall cease to have effect on the expiration of a period of one year from such decision."

Thus in signing this Treaty, the German representative clearly placed the question of repudiation or violation of the Treaty in the hands of others, as they were at the time, of course, members of the League, and members in the Council of the League; that they then left the repudiation or violations to the decision of the League.

Then the next Treaty I mention is the Arbitration Treaty between

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Germany and Czechoslovakia, which was one of the Locarno groups to which I already referred my remarks, but that for convenience I am quoting GB 14, which is British document TC 14. As a breach to this Treaty, as charged in Charge 8, Appendix C, I mentioned the background of the Treaty, and I shall not go into it again. I think a good part that the Tribunal should look at is Article I, which is the governing clause, and sets out the dispute in document TC 14: "All disputes of every kind between Germany and Czechoslovakia with regard to which the Parties are in conflict ---"

THE PRESIDENT: Fourteen, you say, or TC 12 in the book?

SIR MAXWELL-FYFE: No, I am sorry, it is much nearer the end of the book.

THE PRESIDENT: After the Kellogg-Briand Pact?

SIR MAXWELL-FYFE: Yes, it is, I think, after that.

THE PRESIDENT: After TC 18?

SIR MAXWELL-FYFE: Yes, it is after TC 18, and there will be TC 22 and 26, which is short.

THE PRESIDENT: I am very sorry.

SIR MAXWELL-FYFE: And the next one, it comes after that, two after that.

THE PRESIDENT: Thank you.

SIR MAXWELL-FYFE: And I was reading at the foot of the page, Article One.

THE PRESIDENT: Yes.

SIR MAXWELL-FYFE: "All disputes of every kind between Germany and Czechoslovakia with regard to which the Parties are in conflict as to their respective rights, and which it may not be possible to settle amicably by the normal methods of diplomacy, shall be submitted for decision either to an arbitral tribunal, or to the Permanent Court of International Justice as laid down hereafter. It is "agreed that the disputes referred to above include, in particular, those mentioned in Article 13 of the Covenant of the League of Nations." This provision does not apply to disputes arising out of or prior to the present Treaty

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and belonging to the past. Disputes for the settlement of which a special procedure is laid down on other conventions in force between the High Contracting Parties, shall be settled in conformity with the provisions of those Conventions."

Articles Two to Twenty-one. This treaty was registered with the Secretariat in accordance with its Article 22. The second sentence shows the present Treaty was entered into and the terms in force under the same conditions as the said Treaty, which is the Treaty of Mutual Guarantee.

Now I think that is all I'll mention about those Treaties. I think I am right in saying my friend, Mr. Alderman, referred to it. It is certainly the Treaty to which President Benes unsuccessfully appealed during the crisis in the Autumn of 1938. Now the 9th Treaty, with which I should deal, is not in this document book, and I merely put it in formally, because my friend, Mr. Roberts, in dealing with it, read the appropriate parts of it verbatim, and that will be good enough to put into it what I first mentioned, particularly Article C, which is the Arbitration Convention between Germany and Belgium, over at Locarno, which I hand a copy for the convenience of the Tribunal, GB 15. It is a copy, I'll tell the Tribunal. This includes the order on this Arbitration Convention made in the same form, but I thought I would review the essential parts concerned with Belgium, the Low Countries and Luxembourg, which my friend, Mr. Roberts, will present. I only ask the Tribunal to accept the foremost document for the moment. And the same applies to the 10th Treaty, which is mentioned in Charge Ten of Appen-

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dix C. That is the Arbitration Treaty between Germany and Poland, of which I ask the Tribunal to take judicial notice, and which I hand in as GB 16. That again will be dealt with by my friend, Colonel Griffith Jones, when he is dealing with the Polish case.

Now I can take the Tribunal straight to the matter which is not a treaty, but is a solemn declaration, and that is TC 18, which I now put in as Exhibit GB 17, and ask that the Tribunal take judicial notice of, as the Declaration of the Assembly of the League of Nations. The importance is the date which was 24 September 1927. The Tribunal may remember that I asked them to take judicial notice of the fact that Germany had become a member of the League of Nations on 10 September 1926, a year before.

The importance of this Declaration is not only its effect on International Law, to which I will say my learned friend referred, but to the fact that it was unanimously adopted by the Assembly of the League of Nations, to which Germany was a free, and I might say, at once an active member at the time. I think that I need read TC 18, that is, if the Tribunal will be good enough to look at the speech made by M. Sokal, the Polish Rapporteur and this is the translation after the Rapporteur had dealt with the formalities. Referring to the committee's being unanimously adopted, M. Sokal, the Rapporteur, said in the second paragraph:

> "The Committee was of opinion that, at the present juncture, a solemn resolution passed by the Assembly, declaring that wars of aggression must never be employed as a means of settling disputes between States, and that such wars constitute an international crime, would have a salutary effect on public opinion, and would help to create an atmosphere favorable to the League's future work in the matter of security and disarmament.
>
> "While recognizing that the draft resolution does not constitute a regular legal instrument, which would be adequate in itself and represent a concrete contribution towards security, the Third Committee unanimously agreed as to its great moral and educative value."

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Then he asked the Assembly to adopt the draft resolution, and I read simply the terms of the resolution, which shows what so many nations, including Germany, had in mind at that time; the Assembly, recognizing the solidarity which unites the community of nations, being inspired by a firm desire for the maintenance of general peace, being convinced that a war of aggression can never serve as a means of settling international disputes, and is in consequence an international crime; considering that the solemn renunciation of all wars of aggression would tend to create an atmosphere of general confidence calculated to facilitate the progress of the work undertaken with a view to disarmament:

"Declares: 1 - That all wars of aggression are and shall always be prohibited.

2 - That every pacific means must be employed to settle disputes of every description, which may arise between States.

That the Assembly declares that the States Members of the League are under an obligation to conform to these principles."

and the fact of the solemn renunciation of war was taken in the form of a rollcall, and the President announced, you will see, at the end of the extract.

"All the delegations having pronounced in favour of the declaration submitted by the Third Committee, I declare it unanimously adopted."

THE TRIBUNAL (Mr. Biddle): What is the date of that?

SIR DAVID MAXWELL-FYFE: 24 September, 1937.

THE PRESIDENT: 24 September 1927.

SIR DAVID MAXWELL-FYFE: Yes, and Germany joined later, on 10 September 1926.

The last general Treaty which I have to place before the Tribunal is the Kellogg-Briand Pact. The Pact took effect in 1928, which my learned friend Attorney General in opening this part of the case read, and on coming to it fully I hand in as Exhibit GB 18 the British document TC 19, which is a copy of that Pact. I didn't intend unless the Tribunal desires otherwise that I should read it again, as Attorney General yesterday read it in full, because I looked at the same, and rather I leave the document before the Tribunal in that form.

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Now what remains for me to do is to place before the Tribunal certain documents which Mr. Alderman mentioned in the course of his address, and alas to me, I am afraid I have not kept them -- placed them in special order, because they don't relate to the Treaties, but to Mr. Alderman's article. The first of these as I hand in is Exhibit GB 19, this is British Document TC 26, and comes just after that resolution of the League of Nations, which the Tribunal had just been giving attention to, TC 26. It is the assurance contained in Hitler's speech on 21 May 1935, and it is very short, and unless the Tribunal has it in mind from Mr. Alderman's speech, I should like to read it again, and I'll read it. I am not sure it was read before as follows:-

"Germany neither intends nor wishes to interfere in the domestic affairs of Austria, to annex Austria, or to attach that country to her. The German people and the German Government have, however, the very comprehensible desire, arising out of the simple feeling of solidarity due to a common national descent, that the right to self-determination should be guaranteed not only to foreign nations, but to the German people everywhere.

I myself believe that no regime which is not anchored in the people, supported by the people, and desired by the people, can exist permanently."

The next document which is TC 22, and which is on the next page I now hand

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in as GB 19, and is the official copy of the official proclamation of the Agreement between the German Government and the Government of the Federal State of Austria, on July 11, 1936, and I am almost certain that Mr. Alderman did read this document. I refer the Tribunal to paragraph one of the agreement and to what it essentially contains:

"The German Government recognizes the full sovereignty of the Federal State of Austria in the sense of the pronouncements of the German Leader and Chancellor of the 21st May, 1935."

I thereby hand it in as GB 20 --

THE PRESIDENT: GB 20.

SIR MAXWELL-FYFE: I now have three documents which Mr. Alderman asked me to hand in with regard to Czechoslovakia. The first is TC 27, which the Tribunal will find two documents farther on from the one where agreement with Austria, to which I just referred. That is the German Assurance to Czechoslovakia, and what I am handing in is GB 21, which is the letter from M. Masaryk, M. General Masaryk's son, to the learned Viscount Halifax on the date of 12 March 1938, and again I think that Mr. Alderman did read this. He certainly quoted the statement made by the defendant Goering, which appears in the third paragraph. In the first paragraph the Field Marshall used the expression "ich gebe ihnen mein." That means, "I gave my word of honor." If you will look down to the third paragraph, the one in which the defendant Goering had asked that there would not be a mobilization of the Czechoslovak Army, and in the next paragraph:-

"M. Mastny was in a position to give him definite and binding assurances on this subject, and today spoke with Baron von Neurath, who, among other things, assured him on behalf of Herr Hitler that Germany still considers herself bound by the German-Czechoslovak Arbitration Convention concluded at Locarno in October 1925." So there I remind the Tribunal that in 1925 Baron von Neurath was speaking on behalf of Germany in an agreement voluntarily concluded;

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had there been the slightest doubt of that question the defendant Neurath giving the assurance on behalf of Hitler that Germany still considered itself bound by the German-Czechoslovakia Arbitration Convention on the 12 March 1938, six months before Dr. Benes made a hopeless appeal to it before the crisis in the Army in 1938. There is Czechoslovakia's difficult position in the Czechoslovakian Government, which is set out in the last paragraph that M. Mastny said, and of which the Tribunal may think is of great force in this last sentence:-

"They can not however fail to view with great apprehension the sequel of events in Austria between the date of the bilateral agreement between Germany and Austria, 11 July, 1936, and yesterday, 11 March 1938."

To refrain from commenting, I venture to say that is one of the most pregnant sentences relating to this period.

Now the next document which is on the next page is British Document TC 28, which I hand in as Exhibit GB 22. That is an Assurance of the 26 September 1938, which Hitler gave to Czechoslovakia, and again the Tribunal will take my remark with it that Mr. Alderman read this document.

THE PRESIDENT: No, I don't recall it.

SIR MAXWELL-FYFE: If it didn't, the Tribunal ought to have it before them, because it has many important points as to the alleged governmental assurance in getting Germans together and the right which the Nazi conspirators purposely asked for a considerable time as its citizens, which said:-

"I have a little to explain. I am grateful to Mr. Chamberlain for all his efforts, and I have assured him that the German people want nothing but peace; but I have also told him that I can not go back beyond the limits of our patience."

H0015-0065

The Tribunal will remember this is between the Godesberg Treaty and the Munich Pact:

"I assured him, moreover, and I repeat it here, that when this problem is solved there will be no more territorial problems for Germany in Europe. And I further assured him that from the moment when Czechoslovakia solves its other problems, that is to say, when the Czechs have come to an arrangement with their other minorities peacefully, and without oppression, I will no longer be interested in the Czech State. And that, as far as I am concerned, I will guarantee it. We don't want any Czechs. But I must also declare before the German people that in the Sudetan German problem my patience is not at an end. I made an offer to Herr Benes which was no more than the realization of what he had already promised. He now has peace or war in his hands. Either he will accept this offer and at length give the Germans their freedome, or we will get this freedom for ourselves."

This is six months before 15 March. Hitler was saying in the second paragraph when he violated the terms, "He did'nt want any Czechs." I shall now ask, as I am asked by my friend Mr. Alderman this morning, the last document which I shall ask to put in, which I now ask the Tribunal to take the judicial notice of, and hand in is G.B.-23, which is the British document TC-23 a copy of the Munich Agreement of September 29 1938. That was signed by Hitler, later by Mr. Chamberlain, and Mr. - Daladier and Mussolino, and which is largely a procedural agreement by which the entry of German troops into Sudeten-Deutsche territory is regulated. That is shown by the preliminary clause:- "Germany, the United Kingdom, France and Italy", and "taking into consideration the agreement which has already reached in principle for the cession to Germany of the Sudeten German territory as agreed on the following terms and conditions governing the said cession and the measures consequent thereon, and by this agreement they each hold themselves responsible for the steps necessary to secure fulfilment."

I don't think unless the Tribunal wants it, I shall go through the steps in Article 4. It states that "The occupation by stages of the

H0015-0066

predominantly German territory by German troops will begin on 1 October. The four territories marked on the attached map, "and by article 6, "The final determination of the frontiers will be carried out by the international commission." And it provides also that there is the rights of option and the release from the forces -- the Czech forces of Sudeten Germans.

H0015-0067

It provides also for various rights of option and release from the Czech forces of Sudeten Germans.

That was what Hitler was asking for in the somewhat rhetorical passage which I have just read out, and it will be observed that there is an annex to the Agreement which is most significant.

"Annex to the Agreement:

"His Majesty's Government in the United Kingdom and the French Government have entered into the above Agreement on the basis that they stand by the offer contained in Paragraph 6 of the Anglo-French Proposal of the 19th September, relating to an international guarantee of the new boundaries of the Czechoslovak State against unprovoked aggression.

"When the question of the Polish and Hungarian minorities in Czechoslovakia has been settled Germany and Italy, for their part, will give a guarantee to Czechoslovakia."

"The Polish and Hungarian minorities," not the question of Slovakia which the Tribunal heard this morning. That is why Mr. Alderman submitted, and I respectfully joined him in his submission, that the action of the 15th of March was a flagrant violation of the letter and spirit of that Agreement.

That, My Lord, is the part of the case which I desired to present.

THE PRESIDENT: We will now recess for ten minutes.

SIR DAVID MAXWELL-FYFE: Thank you.

(A recess was taken from 15.30 to 15.40 hours.)

SIR GRIFFITH JONES: May it please the Tribunal, Count 2 of the Indictment charges with participating in the planning, the preparation, the initiation and waging of various wars of aggression, and it charges that those wars are also in breach of international treaty. It is our purpose now to present to the Tribunal the evidence in respect of those aggressive wars against Poland and against the United Kingdom and France.

Under Paragraph B. of the particulars to that Count 2, reference is made to Count 1 in the Indictment for the allegations charging

that those wars were wars of aggression, and Count 1 also sets out the particulars of the preparations and planning for those wars, and in particular those allegations will be found in Paragraph F-4. But, My Lord, with the Tribunal's approval I would propose first to deal with the allegations of breach of treaties which are mentioned in Paragraph C. of the particulars, and of which the details are set out in Appendix C. Those sections of Appendix C. which relate to the war against Poland are Section 2, which charge a violation of the Hague Convention in respect of the pacific settlement of international disputes, on which Sir David has already addressed the Court, and I don't propose, with the Court's approval, to say more than that.

Section 3 of Appendix C. and Section 4 charge breaches of the other Hague Conventions of 1907. Section 5 (sub-section 4) charges a breach of the Versailles Treaty in respect of the Free City of Danzig, and Section 13 a breach of the Kellogg-Briand Pact.

Although those have already been dealt with by Sir David Maxwell-Fyfe, and it remains, therefore, only for me to deal with two other Sections of Appendix C: Section 10, which charges a breach of the Arbitration Treaty between Germany and Poland, signed at Locarno on the 16th of October, 1925, and Section 15 of Appendix C., which charges a violation of the Declaration of Non-Aggression which was entered into between Germany and Poland on the 26th of January, 1934.

If the Tribunal would take Part 1 of the British Document Book No. 2, I will desribe in a moment how the remaining parts are divided. The Document Book is divided into six parts. The Tribunal will look at Part 1 for the moment. The Document Books which have been handed to the Defense Counsel are in exactly the same order, except that they are bound in one and not in six separate covers, in which the Tribunal's documents are bound for convenience.

The German-Polish Arbitration Treaty, the subject of Section 10 of Appendix C. is Document TC-15 and it is the end document in the book. It has already been put in under the number GB-16.

My Lord, I would quote the preamble and Articles 1 and 2 from that treaty.

"THE PRESIDENT OF THE GERMAN EMPIRE and THE PRESIDENT OF THE POLISH REPUBLIC:

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"Equally resolved to maintain peace between Germany and Poland by assuring the peaceful settlement of differences which might arise between the two countries;

"Declaring that respect for the rights established by treaty or resulting from the law of nations is obligatory for international tribunals;

"Agreeing to recognize that the rights of a State cannot be modified save with its consent;

"And considering that sincere observance of the methods of peaceful settlement of international disputes permits of resolving, without recourse to force, questions which may become the cause of division between States;

"Have decided..."

Then, go on to Article 1:

"All disputes of every kind between Germany and Poland with regard to which the Parties are in conflict as to their respective rights, and which it may not be possible to settle amicably by the normal methods of diplomacy, shall be submitted for decision either to an arbitral tribunal or to the Permanent Court of International Justice, as laid down hereafter."

I go straight to Article 2:

"Before any resort is made to arbitral procedure before the Permanent Court of International Justice, the dispute may, by agreement between the Parties, be submitted, with a view to amicable settlement, to a permanent international commission, styled the Permanent Conciliation Commission, constituted in accordance with the present Treaty."

Thereafter the treaty goes on to lay down the procedure for arbitration and for conciliation.

THE PRESIDENT: It is in the same terms, is it not, as the arbitration treaty between Germany and Czechoslovakia and Germany and Belgium?

SIR GRIFFITH JONES: Well -- yes, it is, My Lord, both signed at Locarno.

THE PRESIDENT: Yes.

SIR GRIFFITH JONES: The wording, however, of the charge in Section 10, it will be noted, is that Germany did, on or about the 1st of September 1939 unlawfully attack and invade Poland without having first attempted to settle its disputes with Poland by peaceful means.

H0015-0070

The only other treaty to which I refer, the German-Polish Declaration of the 26th of January 1934, will be found as the last document in Part 1 of the Tribunal's Document Book, which is the subject of Section 10 of Appendix C.

"The German Government and the Polish Government" -- this, of course, was signed on the 26th of January, 1934.

"The German Government and the Polish Government consider that the time has come to introduce a new era in the political relations between Germany and Poland by a direct understanding between the States. They have therefore decided to establish by the present declaration a basis for the future shaping of those relations.

"The two Governments assume that the maintenance and assurance of a permanent peace between their countries is an essential condition for general peace in Europe."

THE PRESIDENT: Do you think it's necessary to read all this? We're taking judicial knowledge of it.

SIR GRIFFITH JONES: I'm very willing to oblige. I'm willing to shorten this, if I can.

In view of what is later alleged by the Nazi Government, I will particularly draw attention to the last paragraph in that declaration.

"The declaration shall remain in effect for a period of ten years counting from the day of exchange of instruments of ratification. In case it is not denounced by one of the two governments six months before the expiration of that period of time, it shall continue in effect but can then be denounced by either government at a time of six months and at any time in advance."

Lord, I pass then from the breach of treaties to present to the Court the evidence upon the planning and preparation of these wars and in support of the allegations that they were wars of aggression. For convenience, as I say, the documents have been divided into separate parts and if the Tribunal would look at the index, the total index to their document which is a separate book, on the front page it will be seen how these documents have been divided. Part 1 is the "Treaties"; Part 2 is entitled "Evidence of German Intentions Prior to March 1935 in '39". It might perhaps be more accurately described as

H0015-0071

"Pre-March, 1939, Evidence", and it will be with that part that I would now deal.

It has been put to the Tribunal that the actions against Austria and Czechoslovakia were in themselves part of the preparation for further aggression, and I only now--dealing with the early history of this matter--wish to draw the court's particular attention to those parts of the evidence which show that even at that time, before the Germans had seized the whole of Czechoslovakia, they were perfectly prepared to fight England, Poland and France, if necessary, to achieve those aims; that they appreciated the whole time that they might well have to do so. And, what is more, that, although not until after March, 1939, did they commence upon their immediate and specific preparations for a specific war against Poland, nevertheless, they had for a considerable time before had it in mind specifically to attack Poland once Czechoslovakia was completely theirs.

During this period also--and this happens throughout the whole story of the Nazi regime in Germany, as afterwards, while they are making their preparations and carrying out their plans, they are giving to the outside world assurance after assurance so as to lull them out of any suspicion of their real object.

The dates, I think, as the Attorney General said, addressing you yesterday--the dates in this case almost more than the documents speak for themselves. The documents in this book are arranged in the order in which I will refer to them, and the first that I would refer to is document TC-70, which will go in as GB-25.

It's only interesting to see what Hitler said of the agreement with Poland when it was signed in January, 1934.

"When I took over the Government on the 30th of January, the relations between the two countries seemed to me more than unsatisfactory. There

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was a danger that the existing differences which were due to the Territorial Clauses of the Treaty of Versailles and the mutual tension resulting therefrom would gradually crystalize into a state of hostility which, if persisted, might too easily acquire the character of a dangerous traditional enmity."

I go down to the last paragraph.

"In the spirit of this Treaty the German Government is willing and prepared to cultivate economic relations with Poland in such a way that here, too, the state of unprofitable suspicion can be succeeded by a period of useful cooperation. It is a matter of particular satisfaction to us that in this same year the National Socialist Government of Danzig has been enabled to effect a similar clarification of its relations with its Polish neighbor."

That was in 1934. Three years later, again on the 30th of January, speaking in the Reichstag, Hitler said -- this is document PS-2369, which will be GB-26. I will, if I may, avoid so far as possible repeating passages which the Attorney General quoted in his speech the other day. The first paragraph, in fact, he quoted to the Tribunal. It's a short paragraph but perhaps I might read it now, but I will -- dealing with this evidence -- so far as possible avoid repetition.

"By a series of agreements we have eliminated existing tension and thereby contributed considerably to an improvement in the European atmosphere. I merely recall an agreement with Poland which has worked out to the advantage of both sides. True statemanship will not overlook reality but consider them. The Italian nation and the new Italian state are realities. The German nation and the German Reich are equally realities, and to my own fellow citizens I would say that the Polish nation and the Polish state have also become a reality."

That was on the 30th of January, 1937.

On the 24th of June, 1937, we have a "Top Secret Order", C-175, which has already been put in as "US-69". It is a "Top Secret Order" issued by the Reich Minister for War and Commander in Chief of the Armed Forces, signed "Von Blomberg". There is at the top, "Written by an Officer.

H0015-0073

Outgoing documents in connection with this matter and dealing with it in principle are to be written by an officer." So it's obviously highly secret. And with it is enclosed a Directive for the Unified Preparation for War of the Armed Forces to come into force on the 1st of August 1937. The directive enclosed with it is divided into Part 1, "General Guiding Principle"; Part 2, "Likely Warlike Eventualities"; Part 3, "Special Preparations".

The Tribunal will remember that the Attorney General quoted the opening passages. The general position justifies the supposition that Germany need not consider an attack from any side.

It goes on--the second paragraph:

"The intention to unleash a European war is held just as little by Germany. Nevertheless, the politically fluid world situation, which does not preclude surprising incidents, demands a continuous preparedness for war of the German Armed Forces.
To counter attacks at any time, and to enable the military exploitation of politically favorable opportunities should they occur."

It then goes on to set out the preparations which are to be made, and I would particularly draw the Tribunal's attention to paragraph 2b:

"The further working on mobilization without public announcement in order to put the Armed Forces in a position to begin a war suddenly and by surprise both as regards strength and time."

On the next page, under paragraph 4:

"Special preparations are to be made for the following eventualities: Armed intervention against Austria; warlike entanglement with Red Spain."

And thirdly, and this shows so clearly how they appreciated at that time that their actions against Austria and Czechoslovakia might well involve them in war, "England, Poland, Lithuania take part in a war against us."

If the Tribunal would turn over to Part 2 of that directive, page 5 of that document: "Probable warlike eventualities - Concentrations.

"1. War on two fronts with focal point in the West.

H0015-0074

"Suppositions. In the West France is the opponent. Belgium may side with France, either at once or later or not at all. It is also possible that France may violate Belgium's neutrality if the latter is neutral. She will certainly violate that of Luxembourg."

I pass to Part 3, which will be found on page 9 of that Exhibit, and I particularly refer to the last paragraph on that page under the heading "Special Case - Extension Red-Green." It will be remembered that Red was Spain and Green was Czechoslovakia.

"The military political starting point used as a basis for concentration plans Red and Green can be aggravated if either England, Poland or Lithuania join on the side of our opponents. Thereupon our military position would be worsened to an unbearable, even hopeless, extent. The political leaders will therefore do everything to keep these countries neutral, above all England and Poland."

Thereafter it sets out the conditions which are to be the basis for the discussion. Before I leave that document, the date will be noted, June 1937, and it shows clearly that at that date, anyway, the Nazi Government appreciated the likelihood, if not the probability of fighting England and Poland and France, and were prepared to do so if they had to. On the 5th of November 1937, the Tribunal will remember that Hitler held his conference in the Reichschancellery, the minutes of which have been referred to as the Hoszbach notes. I will refer to one or two lines of that document for the attention of the Tribunal to what Hitler said in respect of England, Poland, and France. On page 1 of that Exhibit, the middle of the page:

"The Fuehrer then stated: 'The aim of German policy is the security and preservation of the nation and its propagation. This is consequently a problem of space.'"

He then went on, you will remember, to discuss what he described "participation in world economy", and at the bottom of page 2 he said:

"The only way out, and one which may appear imaginary, is the securing of greater living space, an endeavor which at all times has been the cause of the formation of states and movements of nations."

And at the end of that first paragraph, on page 3:

H0015-0075

"The history of all times, Roman Empire, British Empire, has proved that every space expansion can only be effected by breaking resistance and taking risks. Even setbacks are unavoidable. Neither formerly nor today has

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space been found without an owner. The attacker always comes up against the proprietor."

My L$_o$rd, it is clear that that reference was not only . . .

THE PRESIDENT: (interposing) It has been read already.

SIR GRIFFITH-JONES: But my object was only to try to collect, so far as England and Poland were concerned, everything that has been given. If the Tribunal thought that it was unnecessary, I would welcome the opportunity . . .

THE PRESIDENT: I think the Tribunal would wish you not to read anything that has been read already.

SIR GRIFFITH-JONES: I would pass then to the next document in that part of the document book. I put that document in. It was referred to by the Attorney General in his address yesterday, and it shows that on the same day as the Hoszbach meeting was taking place a communique was being issued as a result of the Polish Ambassador's audience with Hitler, in which it was said in the course of the conversation, "It was confirmed that Polish-German relations should not meet with difficulty because of the Danzig question." That document is TC 73. It put it in as GB-27. On the 2nd of January . . .

THE PRESIDENT: That hasn't been read before, has it?

SIR GRIFFITH-JONES: It was read by the Attorney General in his opening.

THE PRESIDENT: In his opening? Very well.

SIR GRIFFITH-JONES: On the 2nd of January 1938, some unknown person wrote a memorandum for the Fuehrer. This document was one of the seven foreign office documents of which a microfilm was captured by Allied troops when they came into Germany. It's headed, "Very Confidential - Personal Only", and is called "Deduction on the report, Germany Embassy, London, regarding the future form of Anglo-German relations: "With the realization that Germany will not tie herself to a status quo in Central Europe, and that sooner or later a military conflict in Europe is possible, the hope of an agreement will slowly disappear among Germaphile British politicians, insofar as they are not merely playing a part that

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has been given to them. Thus the fateful question arises: Will Germany and England eventually be forced to drift into separate camps and will they march against each other one day? To answer this question, one must realize the following:

"Change of the status quo in the east in the German sense can only be carried out by force. So long as France knows that England, which so to speak has taken on a guarantee to aid France against Germany, is on her side, France's fighting for her eastern allies is probable in any case, always possible, and thus with it war between Germany and England. This applies then even if England does not want war. England, believing she must attend her borders on the Rhine, would be dragged in automatically by France. In other words, peace or war between England and Germany rests solely in the hands of France, who could bring about such a war between Germany and England by war of a conflict between Germany and France. It follows therefore that war between Germany and England on account of France can be prevented only if France knows from the start that England's forces would not be sufficient to guarantee their common victory. Such a situation might force England, and thereby France, to accept a lot of things that a strong Anglo-France coalition would never tolerate.

"This position would arise for instance if England, through insufficient armament or as a result of threats to her empire by a superior coalition of powers, e.g. Germany, Italy, Japan, thereby tying down her military forces in other places, would not be able to assure France of sufficient support in Europe."

The next page goes on to discuss the possibility of a strong partnership between Italy and Japan, and I would pass from my quotation to the next page where the writer is summarizing his ideas.

Paragraph five: Therefore, conclusions to be drawn by us.

"1. Outwardly, further understanding with England in regard to the protection of the interests of our friends.

2. Formation under great secrecy, but with whole-hearted tenacity of a coalition against England, that is to say, a tightening of our friend-

ship with Italy and Japan; also the winning over of all nations whose interests conform with ours directly or indirectly.

Close and confidential cooperation of the diplomats of the three great powers towards this purpose. Only in this way can we confront England be it in a settlement or in war. England is going to be a hard, astute opponent in this game of diplomacy.

The particular question whether in the event of a war by Germany in central Europe (I am afraid the translation of this is not very good) The particular question whether, in the event of a war in central Europe France and thereby England would interfere, depends on the circumstances and the time at which such a war commences and ceases, and on military considerations which cannot be gone into here."

And whoever it was who wrote that document, he appears to be on a fairly high level, because he concludes by saying, "I should like to give the Fuehrer some of these viewpoints verbally." That document is G.B.-28. Well, I am afraid the next two documents have gotten into your books in the wrong order. If you will refer to PS-2357—you will remember that the document to the Fuehrer, which I have just read, was dated the 2nd of January.

On the 20th of January 1938, Hitler spoke in the Reichstag.

THE PRESIDENT: February, you said?

SIR GRIFFITH_JONES: I beg your pardon, February 1938. That is PS-2357, and will be G.B.-30. In that speech he said

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"In the fifth year following the first great foreign political agreement with the Reich, it fills us with sincere gratification to be able to state that in our relations with the state, with which we had had perhaps the greatest difference, not only has there been a 'detente,' but in the course of the years there has been a constant improvement in relations. This good work, which was regarded with suspiciaon by so many at the time, has stood the test, and I may say that since the League of Nations finally gave up its continual attempts to unsettle Danzig and appointed a man of great personal attainments as the new commissioner, this most dangerous spot from the point of view of European peace has entirely lost its menacing character. The Polish State respects the national conditions in this state, and both the city of Danzig and Germany respect Polish rights. And so the way to an understanding has been successfully paved, an understanding which beginning with Danzig has today, in spite of the attempts of certain mischief-makers, succeeded in finally taking the poison out of the relations between Germany and Poland and transforming them into a sincere, friendly cooperation.

"To rely on her friendships, Germany will not leave a stone unturned to save that ideal which provides the foundation for the task which is ahead of us -- peace."

I turn back to the next -- to the document which was in our document books, the one before that, L-43, which will be G.B. 29. This is a document to which the Attorney General referred yesterday. It is dated the 2nd of May 1938, and is entitled, "Organizational Study 1950." It comes from the office of the Chief of the Organizational Staff of the General Staff of the Air Force, and its purpose is said to be: "The task is to search, within a framework of very broadly-conceived conditions, for the most suitable type of organization of the Air Force. The result gained is termed, "Distant Objective." From this shall be deduced the goal to be reached in the second phase of the setting-up process in 1942, this will be called, "Final Objective 1942." This in turn yields what is considered the

most suitable proposal for the reorganization of the staffs of the Air Force Group Commands, Air Gaus, Air Divisions, etc."

The Table of Contents, the Tribunal will see, is divided into various sections, and Section I is entitled, "Assumptions." Under the heading "Assumption I, frontier of Germany", see map, enclosure one.

The Tribunal sees a reproduction of that map on the wall and it will be seen that on the 2nd of May, 1938, the Air Force was in Estonia, Latvia, Lithuania, Poland, Czechoslovakia, Austria and Hungary, all coming within the boundaries of the Reich. The original map is here attached to this file and if the Tribunal will look at the original exhibit, it will be ssen that this organizational study has been prepared with the greatest care and authority, with a mass of charts attached to the appendages.

I would refer also to the bottom of the second page, to the Tribunal's copy of the translation.

"Consideration of the principles of organization on the basis of the assumptions for war and peace made in Section 1:

"1. Attack Forces:

"Principal adversaries: England, France, and Russia."

And it then goes on to show all the one hundred forty-four Geschwader employed against England, very much concentrated in the Western half of the Reich; that is to say, they must be deployed in such a way that they, by making full use of their range they can reach all English territory down to the last corner.

THE PRESIDENT: Perhaps it is involved in the map. I think you should refer to the organization of the Air Forces, with group commands at Warsaw and Koenigsberg.

SIR GRIFFITH-JONES: I am much obliged. Under the paragraph "Assumption" double heading 2, "Organization of Air Force in peacetime," seven group commands: 1 Berlin 2 Brunswick, 3 Munich, 4 Vienna, 5 Budapest, 6 Warsaw, and 7 Koenigsberg."

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THE PRESIDENT: Yes

SIR GRIFFITH-JONES: I am very much obliged. And lastly, in connection with that Document, on page four of the Tribunal's translation, the last paragraph:

"The more the Reich grows in area and the more the Air Force grows in strength, the more imperative it becomes, to have locally bound commands****" I only emphasize the opening, "The more the Reich grows in area, the more Air Force grows in strength****" but I would say one word on that document. The original, I understand, is signed by an officer who is not at the top rank in the Air Force and I, therefore, don't want to over-emphasize the inferences that can be drawn from it, but it is admitted that it at least shows the lines upon which the General Staff of the Air Force were thinking at that time.

The Tribunal will remember that in February, 1938, the Defendant Ribbentrop succeeded von Neurath as Foreign Minister. We had another document from that captured microfilm, which is dated the 26th of August, 1938, when Ribbentrop had become Foreign Minister, and it is addressed to him as "The Reich Minister, via the State Secretary." It is a comparatively short document and one that I will read the whole of.

"The most pressing problem of German policy, the Czech problem, might easily, but must not lead to a conflict with the Entente. (TC 76-GB 31). Neither France nor England are looking for trouble regarding Czechoslovakia. Both would perhaps leave Czechoslovakia to herself, is she should, without direct foreign interference and through

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internal signs of disintegration, due to her own faults, suffer the fate she deserves. This process, however, would have to take place step by step and would have to lead to a loss of power in the remaining territory by means of a plebiscite and an annexion of territory.

"The Czech problem is not yet politically acute enough for any immediate action, which the Entente would watch inactively, and not even if this action should come quickly and surprisingly. Germany cannot fix any definite time and this fruit could be plucked without too great a risk. She can only prepare the desired developments."

I pass to the last paragraph on that page. I think I can leave out the intervening lines, paragraph five.

THE PRESIDENT: Should you not read the next paragraph "for this purpose".

SIR GRIFFITH-JONES: "For this purpose the slogan emanating from England at present of the right for autonomy of the Sudetan - Germans, which we have intentionally not used up to now, is to be taken up gradually. The international conviction that the choice of nationality was being withheld from these Germans will do useful spadework, notwithstanding the fact that the chemical process of dissolution of the Czech form of states may or may not be finally speeded up by mechanical means as well. The fate of the actual body of Czechoslovakia, however, would not as yet be clearly decided by this: but would nevertheless be definitely sealed.

"This method of approach towards Czechoslovakia is to be recommended because of our relationship with Poland. It is unavoidable that the German departure from the problems of boundaries in the south east and their transfer to the east and north east must make the Poles sit up. The fact is**** -- I put in an "is" because I think it is obviously left out of the copy I have in front of me. -- "The fact is that after the liquidation of the Czech question, it will be generally assumed that Poland will be the next in turn.

"But the later this assumption sinks in in international politics

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as a firm factor, the better. In this sense, however, it is important for the time being, to carry on the German policy, under the well known and proved slogans of 'the right to autonomy' and 'Racial unity'. Anything else might be interpreted as pure imperialism on our part and create the resistance to our plan by the Entente at an earlier date and more energetically, than our forces could stand up to."

That was on the 26th August, 1938, just as the Czech crisis was leading up to a Munich settlement. While at Munich, or rather while a day or two before the Munich agreement was signed, Herr Hitler made a speech. On the 26th September, he said: I think I just will read two lines.

"I assured him, moreover, and I repeat it here, that when this problem is solved there will be no more territorial problems for Germany in Europe." And again, the last document in your book, which is another extract from that same speech, I will not read unless the Tribunal desire, because the Attorney General quoted it in his address yesterday. These two documents precede 28, which is already in as GB-21 and TC-29, which is the second extraction of that same speech, GB-32.

I would refer the Tribunal to one more document under this part which has already been put in by my American colleagues. It is C-23, now US-49, and which appears before the TC-28 in your Document book. The particular passage of the Exhibit, to which I would refer, is a letter from Admiral Carl, which appears at the bottom of the second page. It is dated some time in September, with no precise date, and is entitled "Opinion on the 'Draft Study of Naval Warfare against England'."

"There is full agreement with the main theme of the study." Again, the Attorney General quoted the remainder of that letter yesterday, which the Tribunal will remember.

"If according to the Fuehrer's decision Germany is to acquire a position as a world power who needs not only sufficient colonial possessions but also secure naval communications and secure access to the ocean." That, then, was the position at the time of the Munich agreement in September 1938. The gains of Munich were not, of course, so great as the

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Nazi Government had hoped and had intended and as a result, they were not prepared straight away to start any further aggressive action against Poland or elsewhere but, we have heard this morning, when Mr. Alderman dealt in his closing remarks, with the advantages that were gained by the seizure of Czechoslovakia, what Jodl and Hitler waid on subsequent occasions that Czechoslovakia was only setting the stage for thie attack on Poland, it is, of course, obvious now that they intended and indeed had taken the decision to proceed against Poland so soon as Czechoslovakia had been entirely occupied.

We know now from what Hitler said in talking to his military commanders at a later date, the Tribunal will remember the speech where he said that from the first he never intended to abide by the Munich agreement but that he had to have the whole of Czechoslovakia. As a result, although not ready to proceed in full force against Poland, after September 1938, they did at once begin to approach the Poles on the question of Danzig until, as the Tribunal will see, the whole of Czechoslovakia had been taken in March; no pressure was put on but immediately after the Sudetan land had been occupied, preliminary steps were taken to stir up trouble with Poland, which would and was to eventually lead to their excuse or so-called justification for their attack on their country.

If the Tribunal would turn to part three:--

THE PRESIDENT: I think it is time to adjourn now until ten o'clock tomorrow morning.

(Whereupon, at 1700 hours the hearing of the Tribunal adjourned to reconvene the following day at 1000 hours.)